

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

Th 18a

Appeal Filed: 4/10/06
49th Day: 5/29/06
Staff: Deanna Phelps
Staff Report: 4/24/06
Hearing Date: 5/11/06



STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Malibu
LOCAL DECISION: Approval with Conditions
APPEAL NO.: A-4-MAL-06-044
APPLICANT: Davida Rochlin
APPELLANTS: Patt Healy and Malibu Coalition for Slow Growth
PROJECT LOCATION: 31894 Sea Level Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a new 1,214 sq. ft., two-story single-family residence, 209 sq. ft. attached garage, and new alternative on-site wastewater treatment system.

SUBSTANTIVE FILE DOCUMENTS: Staff Report for City of Malibu Coastal Development Permit No. 05-043, Site Plan Review No. 04-044 and 06-011, and Minor Modification No. 06-003; City of Malibu Planning Commission Resolution No. 06-20.

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE EXISTS

Staff recommends that the Commission determine that **no substantial issue exists** with respect to the appellants' assertion that the project is not consistent with the ESHA provisions of the certified Local Coastal Program (LCP). Motion and resolution can be found on **Pages 3 and 4**.

I. APPEAL JURISDICTION

The project site is located on Sea Level Drive, at the south end of Broad Beach Road in Malibu (**Exhibit 1**). The Post LCP Certification Permit and Appeal Jurisdiction map certified for the City of Malibu (Adopted September 13, 2002) indicates that the appeal jurisdiction for this area extends to 100 feet from the stream that is located just offsite, along the western boundary of the site. The proposed project site is within this appeal area. As such, the City's coastal development permit for the subject project is appealable to the Commission.

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

1. Appeal Areas

Developments approved by cities or counties may be appealed if they are located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603[a]). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5]).

2. Grounds for Appeal

The grounds for appeal for development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[a][4])

3. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds

on which the appeal was filed. When Commission staff recommends that no substantial issue exists with respect to the grounds of the appeal, the Commission will hear arguments and vote on substantial issue. A majority vote of the members of the Commission is required to determine that the Commission will not hear an appeal. If the Commission determines that no substantial issue exists, then the local government's coastal development permit action will be considered final.

4. De Novo Permit Hearing

Should the Commission determine that substantial issue does exist, the Commission will consider the application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On March 20, 2006, the City of Malibu Planning Commission approved Coastal Development Permit 05-043, Site Plan Review 04-044 and 06-011, and Minor Modification 06-003 for the single-family residence project. The Notice of Final Action for the project was received by Commission staff on April 7, 2006. A ten working day appeal period was set and notice provided beginning April 10, 2006, and extending to April 21, 2006.

An appeal was filed during the appeal period by Patt Healy and Malibu Coalition for Slow Growth (April 10, 2006). An addendum to this appeal was received on April 15, 2006, also during the appeal period. Commission staff notified the City, the applicant, and all interested parties that were listed on the appeal and requested that the City provide its administrative record for the permit. The administrative record was received on April 18, 2006. A written response to the appeal was received from the project applicant, Davida Rochlin, on April 19, 2006 and is attached as Exhibit 8.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-MAL-06-044 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds **No Substantial Issue**, the Commission will not hear the application

de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-MAL-06-044 raises **no substantial issue** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified LCP and/or the public access and recreation policies of the Coastal Act.

III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The City of Malibu Planning Commission approved Coastal Development Permit (CDP) No. 05-043, Site Plan Review No. 04-044 and 06-011, and Minor Modification No. 06-003 for construction of a new 1,214 sq. ft., two-story single-family residence, with a 209 sq. ft. attached garage, and new alternative on-site wastewater treatment system at 31894 Sea Level Drive.

The approved project site is a 0.08-acre (3,556 sq. ft.) parcel located in a residential neighborhood on the coastal side of Pacific Coast Highway (PCH), immediately west of the intersection of PCH and Broad Beach Road, and Sea Level Drive and Broad Beach Road (**Exhibits 2-5**). The parcel is zoned Single-Family Residential Medium (SF-M). The site is undeveloped, and Encinal Creek, a USGS blue-line stream, emerges from a culvert beneath PCH approximately 16 feet west of the subject parcel and runs in a general southwest direction towards the Pacific Ocean. Encinal Creek is mapped as an Environmentally Sensitive Habitat Area (ESHA) on the Malibu LCP ESHA maps. The entire subject parcel is within the 100-foot ESHA buffer. However, the subject parcel contains disturbed coastal sage scrub vegetation. Riparian vegetation is contained within the off-site stream channel only, and the stream banks are lined with non-native eucalyptus trees that are known to serve as monarch butterfly wintering habitat. No functional riparian vegetation extends onto the subject property.

B. APPELLANTS' CONTENTIONS

The City's action was appealed by Patt Healy and Malibu Coalition for Slow Growth. The appeal is attached as **Exhibit 7**. The appeal contends that the approved project, as conditioned, does not meet requirements of the Malibu Local Coastal Program (LCP) and gives several grounds for the appeal, all of which are related to the development's

proximity to Environmentally Sensitive Habitat Area (blue-line stream) and monarch butterfly habitat.

The appellant alleges that the project is not consistent with Chapter 4 of the Malibu Local Implementation Plan (LIP). The appeal contends that less environmentally damaging alternatives were not selected by City staff in order to minimize impacts to ESHA, as per LIP Section 4.8, and therefore, the “least environmentally damaging alternative” finding could not be made. In addition, the appeal contends that other development standards took priority over ESHA protection and is in conflict with LIP Section 4.6.4C. The appellant also asserts that the project’s allowable development area within an ESHA buffer (25 percent of lot area) was surpassed because all graded slopes were excluded from the development area calculation by City staff. Further, the appeal contends that the approved project does not include special conditions ensuring that adverse impacts to ESHA as a result of proposed fuel modification requirements are fully mitigated, as required by Section 4.8 of the Malibu LIP. Finally, the appellant asserts that the cumulative impacts of new development on stream quality and habitat value on the vacant lots that are contiguous with the subject lot and also border Encinal Creek should be evaluated before any individual development is approved. However, no specific policies or standards of the LCP are identified in regards to this assertion.

C. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellant relative to the project’s conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act. In this case, the appellant did not cite the public access policies of the Coastal Act as a ground for appeal.

The appeal raises no substantial issue with regard to the grounds on which the appeal has been filed, as discussed below.

1. Streams and Environmentally Sensitive Habitat Areas

The western boundary of the subject parcel is located approximately 16 feet away from the top of the drainage bank of Encinal Creek, near where it emerges from a culvert beneath PCH (**Exhibit 6**). The drainage has been identified as riparian ESHA on the Malibu LCP ESHA maps. The entire parcel is situated within the 100-foot ESHA buffer. According to a biological assessment provided by the applicant, prepared by Rincon Consultants, Inc. and dated October 21, 2004, the drainage contains riparian vegetation in the channel and eucalyptus trees along the banks. The eucalyptus trees are known to serve as monarch butterfly wintering habitat. The applicant’s biological consultant concluded that the off-site drainage and eucalyptus grove is considered ESHA.

The appeal filed by Patt Healy and Malibu Coalition for Slow Growth contend that the project’s approved allowable development area within an ESHA buffer (25 percent of lot

area) was surpassed because all graded slopes were excluded from the development area calculation by City staff. In addition, the appellant contends that the project does not comply with LIP Section 4.8, in that the least environmentally damaging alternative to minimize impacts to ESHA was not selected.

Section 4.6.1 of the Malibu LIP states, in part, the following with regard to buffers:

4.6.1. Buffers

New development adjacent to the following habitats shall provide native vegetation buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. Vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted within buffers except as provided in Section 4.6.1 (E) or (F) of the Malibu LIP. The following buffer standards shall apply:

A. Stream/Riparian

New development shall provide a buffer of no less than 100 feet in width from the outer edge of the canopy of riparian vegetation. Where riparian vegetation is not present, the buffer shall be measured from the outer edge of the bank of the subject stream.

As stated previously, the entire subject parcel lies within the 100-foot ESHA buffer of Encinal Creek. The parcel is zoned Single-Family Residential Medium (SF-M), and residential development is a permitted use within this zone. LIP Section 4.7 states in part that:

Where all feasible building sites are ESHA or ESHA buffer, the City may only permit development as specified below in sections 4.7.1 through 4.7.4 of the Malibu LIP in order to provide the owner with an economically viable use of the property.

Applicable Section 4.7.1 states in part:

In other ESHA areas, the allowable development area on parcels where all feasible building sites are ESHA or ESHA buffer shall be 10,000 sq. ft. or 25 percent of the parcel size, whichever is less.

The maximum allowable development area under Section 4.7.1, given the subject lot area of 3,556 sq. ft., is 889 sq. ft. The applicant's approved 877 sq. ft. development footprint consists of a 567 first floor area, a 101 sq. ft. breezeway, and a 209 sq. ft. attached garage. The second floor is 546 sq. ft. The project's 400 sq. ft. permeable driveway is excluded from the total development area, as per Chapter 2 of the Malibu LIP, which allows exclusion of one access driveway or roadway not to exceed twenty feet wide. In addition, the building foundation is designed with friction piles in order to minimize grading of slopes in the area of the building pad. Approximately 36 cubic yards of grading was proposed for the building pad and driveway. This grading does not enlarge the area of the project site that is developed. An additional 27 cubic yards of grading to restore an eroded gully at the northern portion of the property was also proposed. Such grading is remedial in nature, intended to improve site stability and

drainage, and does not expand upon the area of development. Therefore, the Commission finds that the approved project conforms to the development area limitation of 25 percent of the parcel area to allow for an economically viable use of the property located within ESHA buffer.

Section 4.7 of the LIP states, in part, the following in regards to the protection of ESHA:

The uses of the property and the siting, design, and size of any development approved in ESHA or ESHA buffer, shall be limited, restricted, and/or conditioned to minimize impacts to ESHA on and adjacent to the property, to the maximum extent feasible.

Section 4.8A of the Malibu LIP states, in part, the following:

New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected.

Siting and design alternatives were analyzed by the applicant and City staff throughout the coastal development permit process. The approved development conforms to the allowable development area in ESHA buffer areas, and has been oriented in a north-south direction to maximize setback from the Encinal Creek ESHA corridor. The on-site alternative wastewater treatment system has been sited beneath the driveway in a corner of the property furthest from the stream. In addition, the applicant has incorporated project elements on-site in order to protect and enhance the ESHA bordering the property, such as landscaping using native riparian and monarch butterfly-friendly vegetation and utilizing a permeable driveway. Given site constraints regarding wastewater treatment, parking, and required setbacks, the development has been sited and designed as far away from the Encinal Creek ESHA corridor as feasible.

The appellant contends that the City could have considered alternative designs for a smaller residence to further reduce potential impacts to ESHA. The appeal states that the project could have been reduced in size from the approved 1,214 sq. ft. to the minimum allowed under the provisions of Section 3.6 of the LIP, which is 800 sq. ft. If the development were to be reduced to the 800 sq. ft. minimum floor area of a residential unit, the same site constraints would apply and the reduction in development footprint would not result in a significant increase to the setback from Encinal Creek so as to reduce impacts to ESHA. Therefore, as approved, the project has been sited and designed to minimize impacts to ESHA to the maximum extent feasible.

Regarding variances, Section 4.6.4C of the Malibu LIP states the following:

Protection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall take precedence.

The appellant contends that "other" development standards took priority over ESHA protection in the case of the approved project, and is therefore in conflict with Section

4.6.4C of the Malibu LIP. Review of the proposed development in relation to ESHA and in consideration of required setbacks and development standards indicate that a reduction in the front yard setback so as to site the residence closer to Sea Level Drive and further away from Encinal Creek would not significantly reduce impacts to off-site ESHA.

Additionally, the appeal contends that the approved project does not include special conditions ensuring that adverse impacts to ESHA as a result of proposed fuel modification requirements are fully mitigated, as required by Section 4.8 of the Malibu LIP.

Malibu LIP Section 4.8 states, in part:

Residual adverse impacts to ESHA shall be fully mitigated, with priority given to on-site mitigation...The permit shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the project.

Fuel modification required by the Fire Department for the development project consists of trimming of existing trees, removal of saplings, and removal of dead or dying plant material. As such, the project will result in unavoidable impacts to ESHA given the project site's location within an ESHA buffer. In order to mitigate for habitat impacts resulting from fuel modification requirements, the City has required Special Condition No. 40, specifying that prior to issuance of the coastal development permit the applicant shall provide evidence or guarantee that compensatory mitigation, in the form of an in-lieu fee, has been paid to the Santa Monica Mountains Conservancy. As such, mitigation for impacts to ESHA and ESHA buffer from any required fuel modification has been required.

In conclusion, the project, as approved by the City of Malibu, conforms to the ESHA protection policies and standards of the Malibu LCP. While the proposed project is located within the required ESHA buffer, there are no alternative development locations that could provide the required buffer. Therefore, the approved project was sited and designed to conform to the provisions of Section 4.7 of the Malibu LCP. The project is consistent with the maximum allowable development area required under LIP Section 4.7 and siting and design measures were included to minimize significant adverse impacts to ESHA, and in addition, mitigation was required for the unavoidable impacts of fuel modification. As such, the Commission finds that the appellant's contentions regarding development adjacent to ESHA raise no substantial issue with regard to consistency with the policies and provisions of the certified LCP.

2. Cumulative Impacts

The appeal filed by Patt Healy and Malibu Coalition for Slow Growth contends that the cumulative impacts of new development along the six vacant lots bordering Encinal Creek, including the subject lot, should be evaluated before approving development on any of them. The appeal does not provide specific LCP policies or provisions that is pertinent to this contention, nor does the Malibu LCP contain policies or provisions

regarding cumulative impacts of development adjacent to ESHA. The City made findings as required by the LCP regarding the potential environmental impacts of the approved project, including alternatives. As described above, the project was designed to minimize impacts to riparian ESHA. Each of the subject six vacant parcels are under separate ownership, and therefore proposed development on each parcel must be considered separately and be in compliance with Malibu LCP policies and provisions regarding protection of ESHA.

Therefore, the Commission finds that this contention raises no substantial issue with regard to consistency with the policies and provisions of the certified LCP.

D. CONCLUSION

For the reasons discussed above, no substantial issue is raised with respect to the consistency of the approved development with the policies of the City's certified LCP regarding ESHA. Therefore, the Commission finds that the appeal does not raise a substantial issue as to the City's application of the policies of the LCP in approving the proposed development.

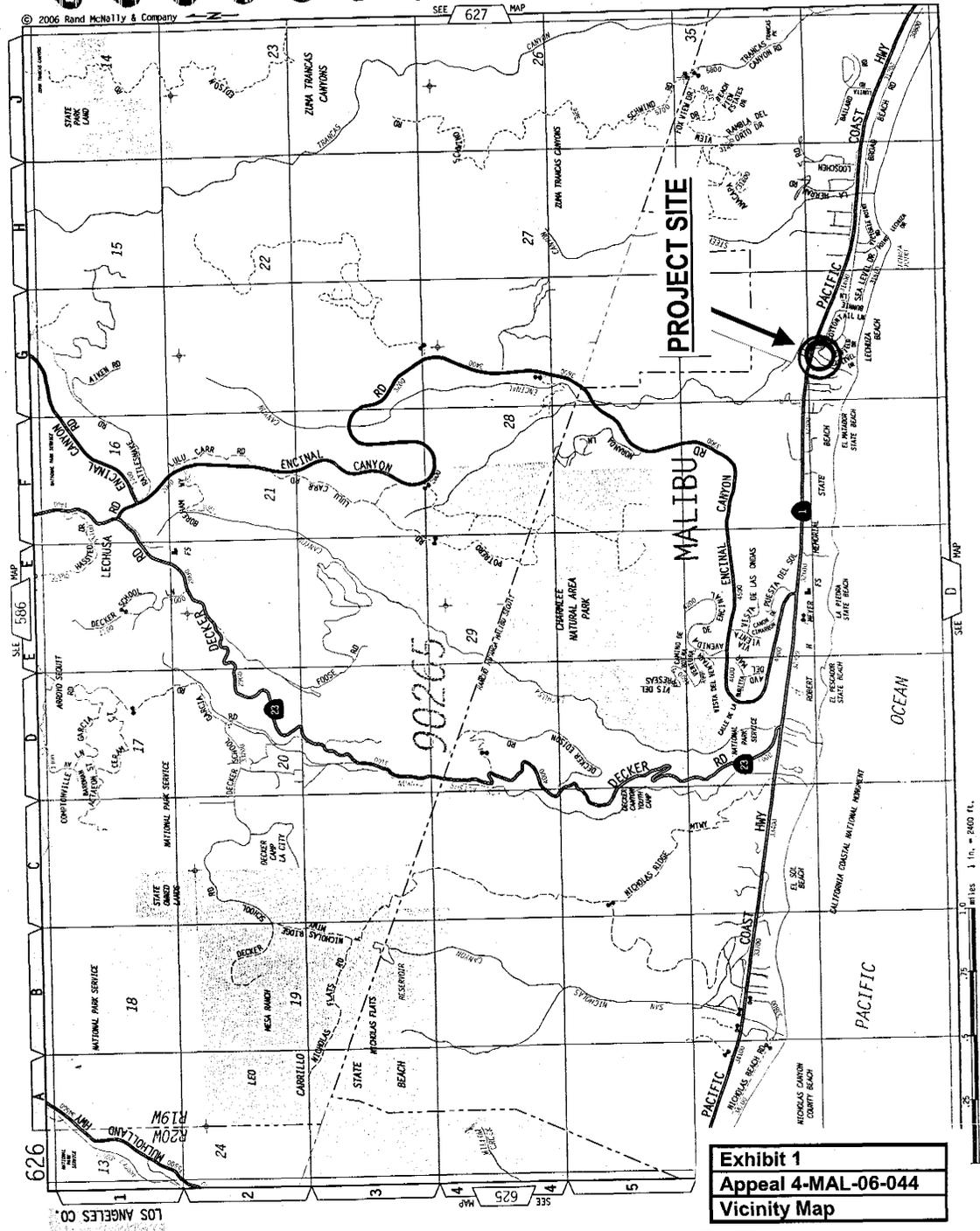
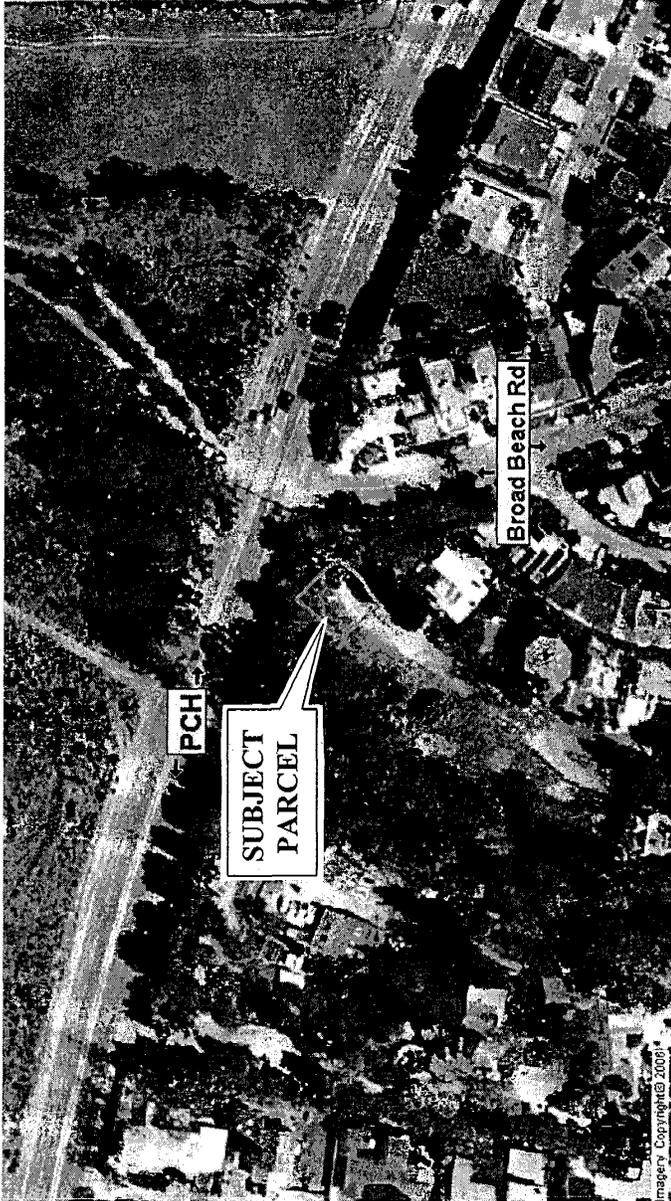


Exhibit 1
Appeal 4-MAL-06-044
Vicinity Map



Scale: 1" = 134'
N
CityGIS5
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Aerial Photograph
31894 W. Sea Level Dr.



Exhibit 2
Appeal 4-MAL-06-044
Aerial View

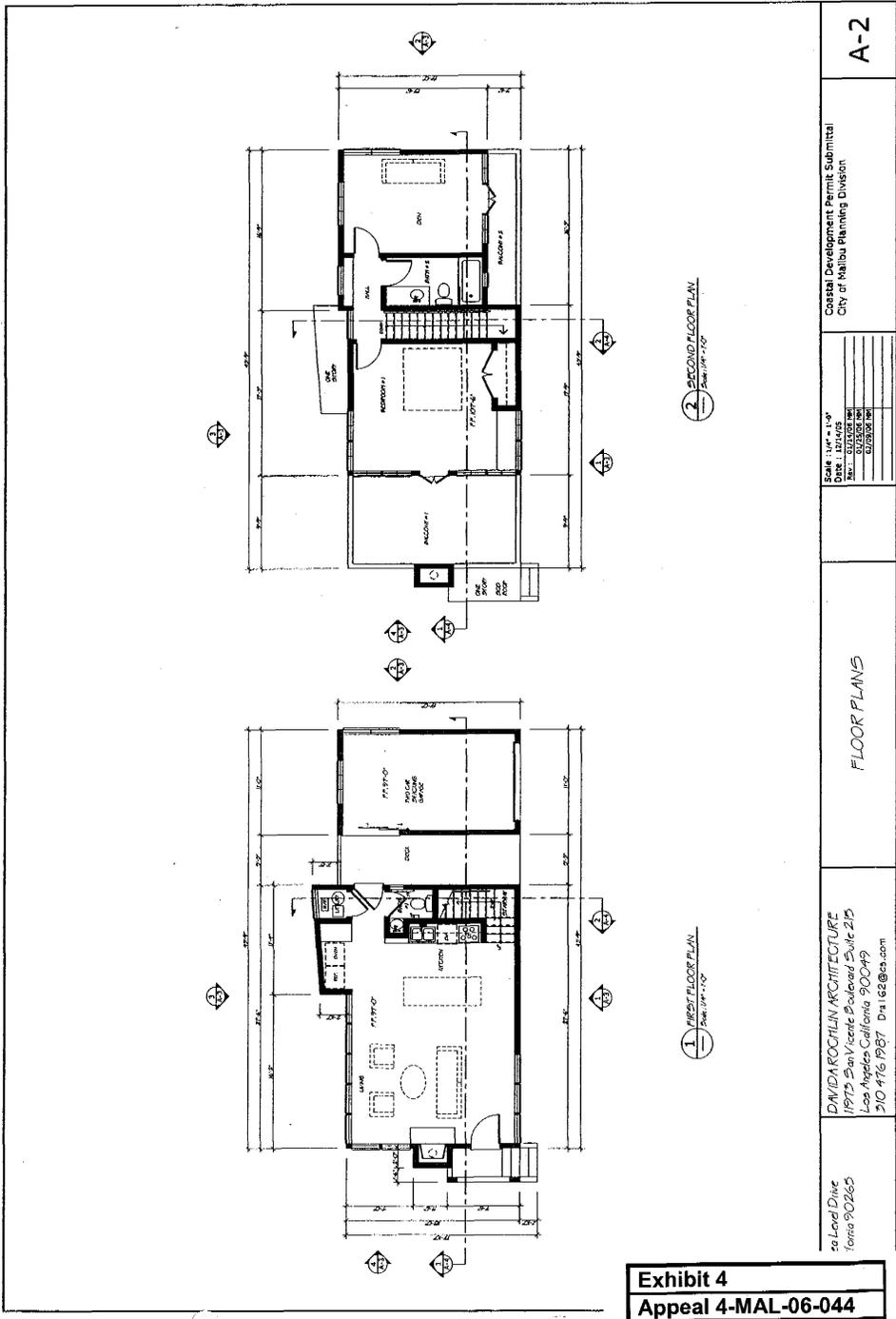


Exhibit 4
Appeal 4-MAL-06-044
Floor Plans

<p>45 Lead Drive Irvine 92615</p>	<p>DAVIDA ROCHLIN ARCHITECTURE 19715 San Vicente Boulevard Suite 210 Los Angeles California 90049 Tel: 476 1907 Fax: 462 65.com</p>	<p>FLOOR PLANS</p>	<p>Scale: 1/4" = 1'-0" Date: 11/24/05 Rev: 01/25/06 01/25/06</p>	<p>Cassal Development Permit Submittal City of Malibu Planning Division</p>	<p>A-2</p>
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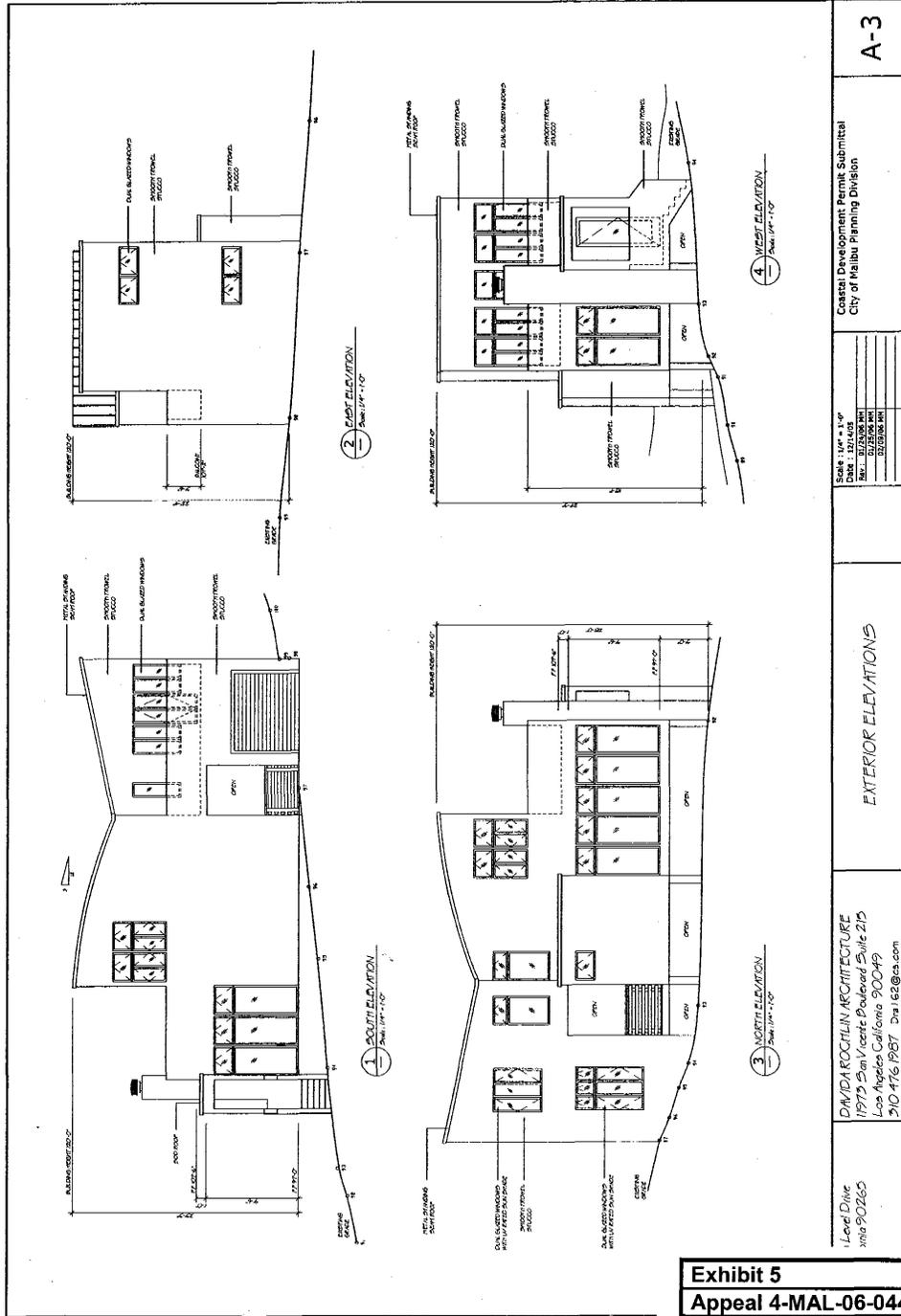


Exhibit 5
Appeal 4-MAL-06-044
Elevations

Lead Date 3/18/2023	DAVIDA ROCHLIN ARCHITECTURE 18779 San Vicente Boulevard Suite 215 Los Angeles, California 90049 310 476 1987 Dna 628@ra.com	EXTERIOR ELEVATIONS	Scale: 1/4" = 1'-0" Date: 12/15/23 Sheet: 02/0308 SH Division: SH	Coastal Development Permit Submittal City of Malibu Planning Division	A-3
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STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732

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APR 05 2006

ARNO SWARTZENEGGER, Governor



CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Pat Italy for Malibu Coastal Commission for Slow Growth
Mailing Address: 403 San Vicente Blvd.
City: Santa Monica CA Zip Code: 90402 Phone: 310-393-1818

SECTION II. Decision Being Appealed

- Name of local/port government:
City of Malibu
- Brief description of development being appealed:
Single family residence within ESSTA Buffer of Encinal
Creek a known butterfly habitat (monarch)
- Development's location (street address, assessor's parcel no., cross street, etc.):
31894 Sea Level Dr
Malibu
- Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	A-4-MAL-06-044
DATE FILED:	4/10/06
DISTRICT:	So. Central Coast

Exhibit 7
Appeal 4-MAL-06-044
Appeal Form

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: 3.20.06

7. Local government's file number (if any): 05.043

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Davidia Rochlin
to be provided
city file not available for review to give you this info -

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See attached p 5

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.
Pat Healy +/or Malibu Codition for Snow Creek

Pat Healy
Signature of Appellant(s) or Authorized Agent

Date: 4.1.06

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Cumulative Impacts

There are 6 contiguous substandard lots bordering on an Encinal Creek, a blue stream and one of the last remaining monarch butterfly habitat in Malibu ESHA. All of these lots currently have planning applications on file with the city planning department. These lots are so small that the cumulative impacts to stream quality (from septic, runoff etc) and the monarch's habitat could be devastating. For these reason extraordinary care should be taken in developing these 6 lots. Ideally no approvals for a CDP should be granted on any of these lots until the cumulative impacts of their proposed development is evaluated but individually and as a whole. If possible we ask that you postpone this appeal until the time that a cumulative impact analysis is made.

This development, if approved as proposed , will set a precedent for the other remaining 5 lots which will create more harm to natural resources than what is intended with this approval.

4. Necessary Findings can't be made

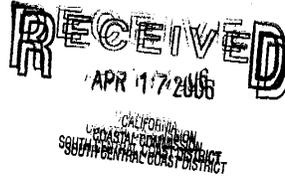
The finding that this is the least environmentally damaging alternative cannot be made for these reasons.

.Applicant didn't submit a less damaging alternate for review by city staff. A smaller foot print for this project can be achieved and a smaller structure constructed. Allowable development area for this lot is 25% of the lot however city staff has excluded from the developable area all graded slopes which should not be allowed since it is feasible that graded slopes be included in the development area .

Also just because there is an allowable development area is 25% of the lot size, it doesn't mean that the applicant is entitled to develop this area especially if a smaller structure can be built. This lot is only 3,556 sq ft and the residence is being set back we were told 25 ft from the ESHA. This structure is 1214 square feet where Malibu's zoning code and LIP3.6.D allow for a residence of 800 sq ft. Eight hundred sq ft was determined not to be a taking. Because of this projects proximity to the stream and monarch habit the allowable residence size of should be reduced to that size. In this neighbor hood at this location this is not an extreme request especially since there are 5 more adjacent proposed residences planned right along Encinal Creek in very close proximity to the ESHA. . Eight hundred square feet is larger than many one bedroom apartments and beach cottages. At this stream location in such close proximity to the beach in a gated community an eight hundred foot beach house would give the Applicant a very reasonable return on investment as well as a reasonable use of the applicant's property.

An eight hundred sq.ft. 2 story structure should be the maximum size structure allowed for this lot which would then allow for a greater setback from ESHA. The LIP supports this size structure. LIP 4.6.4 states that ESHA protection shall take priority over other development standards and where there is a conflict, the standards that are most protective of ESHA shall take precedence. LIP 4.8A states: New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that would result in the fewest or least significant impacts shall be selected.

MALIBU COALITION FOR SLOW GROWTH
403 San Vicente Blvd
Santa Monica, CA 90402



April 15, 2006

California Coastal Commission
89 South California Street
Suite 200
Ventura CA 93001
Attention : Barbara Carey

Dear Barbara :

Enclosed please find an additional issue to be added to the appeal to the Coastal Commission of 31894 Sealevel Malibu.

More extensive comments will follow at a later date.

With my best regards,

Sincerely ,

A handwritten signature in cursive script, appearing to read "Patt Healy".

Patt Healy
Malibu Coalition for Slow Growth

Appeal by Patt Healy and /or Malibu Coalition for Slow Growth of 31894 Sealevel. 4-15-06 Additions to Original Appeal to Coastal Commission

Section III

The Name and Address of the Applicant is Davida Rochlin 11973 San Vicente Blvd. Ste. 215, Los Angeles, CA 90049

Section IV

Fire Department brush clearance requirements state that existing trees be trimmed and saplings removed . Over time if there are no saplings to replace aging trees as they eventually die off , the ESHA Habitat will be destroyed whether it be native trees or non native trees. Whether native or non native the continuing existence of the trees are necessary for the long term success of the Monarch Butterfly overwintering habitat as well as other species that use this stream habitat. These fire department required modifications will adversely impact the habitat values of the riparian system. Therefore, at the very least the Commission should require habitat mitigation for fuel modification pursuant to LIP 4.8.1.

In addition, to the monarch butterfly who utilize this ESHA and Buffer the following birds were observed by biologist Roy Vanderhook: Red Shouldered Hawk, Cooper's Hawk. American Kestral and Merlin, Great Horned Owls were heard at night.

If possible to impose the following we ask that this property be earmarked as a donor sight in Malibu's Transfer of Development Program. This is a substandard size lot in ESHA/ ESHA buffer. If it can be legally accomplished this lot should be spared from development.

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David

ROCHLIN

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RECEIVED
APR 20 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

April 19, 2006

Deanna Phelps, Coastal Program Analyst
California Coastal Commission
South Central Coast District
89 South California Street Suite 200
Ventura, California 93001

Re: Commission Appeal No. A-4-MAL-06-044
31894 Sea Level Drive
Malibu, California – CDP No. 05-043

Dear Ms. Phelps,

As Owner/ Architect of the Proposed Single Family Residence at 31894 Sea Level Drive, Malibu, California who has worked with the City of Malibu Planning Division for the past two and one half years to meet all local and state planning and building code compliances, I am responding to the California Coastal Appeal Letter A-4-MAL-06-004, filed April 10, 2006 by Appellant Patt Healy and/or Malibu Coalition for Slow Growth relating to this project.

The basic premises of Patt Healy's Cumulative Impacts argument are false because:

1. 31894 Sea Level Drive (Lot 170 of Tract 10630) is a legal lot.
2. 31894 Sea Level Drive (Lot 170 of Tract 10630) is owned individually. Legal Counsel for the City of Malibu Planning Commission determined at the March 19, 2006 Hearing that 31894 Sea Level (Lot 170) is not part of a developer's subdivision project and that there is no legal basis to group it, for planning purposes, with five other lots on the same street owned by other parties.
3. The proposed Single Family Residence at 31894 Sea Level Drive complies with all of the rules and regulations as set forth by the City of Malibu Planning Division, County of Los Angeles Fire Department, City of Malibu Public Works and the California Coastal Land Use Plan/ Local Implementation Plan.

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Exhibit 8
Appeal 4-MAL-06-044
Applicant Response to Appeal

ARCHITECTURE

David

ROCHLIN

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Moreover:

- a. A proposed Monarch Butterfly Garden is an integral part of the 31894 Sea Level Residence design. Project Biologist, Rincon Consultants Inc., maintains that the adjacent Monarch Butterfly Habitat will be enhanced with the proposed Monarch Butterfly Garden.
 - b. The project's alternative wastewater septic system is located as far from the existing creek as possible, beginning at the furthest edge of the south property line at West Sea Level Drive. (Refer to Sheet SE 1)
 - c. Grading Sheets G1, G2, G3, and G4 address grading and drainage concerns and illustrate runoff will be directed to the street, not toward the creek. The proposed project includes a Stormceptor Stormwater Treatment Unit and Stormwater Detention Device. The garage driveway is grasspave, not concrete, a permeable surface. The drawings include a Construction Erosion Control Plan and Water Pollution Control Plan.
4. This lot does **not** set a precedent for the other five remaining lots on Sea Level Drive because each lot will need to comply on its own with all of the codes and regulations governing construction of single family residences in Malibu. Each lot has its own unique characteristics and concerns.

The Appeal Letter continues to state that "the finding that this is least environmentally damaging alternative cannot be made."

The above comment is false because:

- 1. The lot size constraints and code requirements allow for no alternatives. Please refer to City of Malibu Staff Report, Subject: CDP Permit No. 05-043, prepared by Noah Greer, City of Malibu Contract Planner. The report includes extensive analysis of environmental concerns.
- 2. A reduced size of proposed residence would **not** allow for a greater setback from the ESHA. Ms. Healy argues that the Owner should reduce the size of a small house by one-third as the environmentally least damaging alternative. Without arguing the merits of whether this reduction would constitute a "taking" under California and federal law, it is important to note that any reduction of square footage of the proposed project would **not** change the location of the proposed residence or septic system.

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The proposed septic system is already located at the most southern edge of the property. Septic sizes are determined by the number of bedrooms not square footage. The proposed residence is a one bedroom house. The Malibu-Encinal Homeowners Association CC&R's requires a fifteen foot front yard setback.

3. The proposed project is designed with friction piles and minimal grading. There is grading at the driveway and remedial grading only. The LCP/ LI P's definition of development area (page 8) states "the area of one access driveway not to exceed twenty feet wide, shall be excluded from the total development area."
4. Please refer to Barbara J. Carey, Supervisor, Planning and Regulation, California Coastal Commission March 16, 2006 letter to C.J. Amstrup, Planning Manager, City of Malibu which states the following in relation to CDP 05-043 (31894 Sea Level Drive):

"We are in support of the staff recommendation on this proposed project. The report well demonstrates that the project has been sited and designed to minimize impacts to ESHA..."

In light of all of the above comments, the Coastal Commission should conclude that there are no substantive issues to Commission Appeal No. A-4-MAL-06-044.

If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,



David Rochlin, AIA
David Rochlin Architecture

cc: Noah Greer
Kathleen Mallory
CJ Amstrup

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Commission Agenda Report

Planning
Commission
03-20-06

**Item
6.B.**

To: Chair Moss and Members of the Planning Commission

Prepared by: Noah Greer, Contract Planner *NG*

Reviewed by: CJ Amstrup, AICP, Planning Manager *[Signature]*

Approved by: Victor Peterson, Environmental and Community Development Director *[Signature]*

Date prepared: February 22, 2006 Meeting date: March 20, 2006

Subject: Coastal Development Permit No. 05-043, Site Plan Review Nos. 04-044 and 06-011, Minor Modification No. 06-003 – An application for the construction of a new, 1,214 square foot, two-story, single-family residence with a 209 square foot, attached garage and a new, alternative onsite wastewater treatment system (AOWTS). The proposal includes a site plan review for construction in excess of 18-feet, not to exceed 28-feet, and construction on slopes from 3:1 to 2½:1. A minor modification is also requested to allow a six-inch encroachment within the westerly side yard setback.

Application Number: Coastal Development Permit No. 05-043,
Site Plan Review Nos. 04-044 and 06-011,
Minor Modification No. 06-003

Application Filing Date: March 15, 2005

Applicant/Owner: Davida Rochlin

Location: 31894 Sea Level Drive
within the coastal zone

APN: 4470-027-015

Zoning: Single-Family Residential Medium (SF-M)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 06-20 (Attachment 1) approving Coastal Development Permit (CDP) No. 05-043 for the construction of a new, 1,214 square foot, two-story, single-family residence with a 209 square foot, attached two-car garage. The proposal includes two site plan reviews for construction in excess of 18-feet, not to exceed 28-feet, construction on slopes from 3:1

Exhibit 9
Appeal 4-MAL-06-044
Malibu Planning
Commission Staff
Report and Resolution

to 2½:1. A minor modification is requested to allow a six-inch encroachment (five percent) within the westerly side yard setback.

DISCUSSION: The issue before the Planning Commission is whether to adopt Resolution No. 06-20 approving CDP No. 05-043. The proposal includes the construction of a new, single-family residence on a 3,556 square foot (.08 acre) parcel located at 31894 Sea Level Drive (SF-M Zone) within the coastal zone.

As the project is located on a vacant parcel between Pacific Coast Highway (PCH) and the ocean, adjacent to a stream, potential issue areas are archaeology, habitat protection and public views.

Chronology of Project

On January 23, 2004, a pre-application (PA No. 04-006) was filed with the Planning Division for review and comment. Subsequently, an application for an administrative plan review (APR No. 04-036) and a site plan review (SPR No. 04-044) was submitted on June 30, 2004 for the construction of a new, single-family residence. Staff provided general development standard information to the applicant in response to the pre-application. Following adoption of the City's Local Coastal Plan, the APR was no longer applicable, and this application for a coastal development permit (CDP No. 05-043) was filed on March 15, 2005.

The subject application was referred to and reviewed by the City Biologist, City Environmental Health Specialist, City Geologist, City Public Works Department and the Los Angeles County Fire Department (LACFD).

After a June 9, 2005 determination of application completeness, the application was reviewed by the Environmental Review Board (ERB) on June 22, 2005. The ERB expressed concerns and made recommendations regarding grading, hydrology and habitat conservation. All feasible recommendations have been addressed and have been incorporated into the proposed project (see Attachment 5, ERB Recommendations).

Story poles were erected on February 1, 2006. On February 12, 2006, a Notice of Application was posted on the property. The pending application was deemed complete for processing on February 15, 2006.

On March 9, 2006, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on March 8, 2006, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

Surrounding Land Use and Setting

The subject parcel was created as part of Tract 10630 on September 23, 1932, as shown on Pages 6 – 11 in Book 181 of Maps, Los Angeles County Recorder. Geologic data obtained from the property indicates that the surface of the site consists mostly of fill material, likely deposited at the time Sea Level Road was graded. A review of aerial photographs indicates that the subject parcel has been maintained relatively free of significant vegetation since at least 1972, the earliest date for which photographs are available.

The approximately 3,556 square foot lot is located at 31894 West Sea Level Drive and is zoned SF-M (Single-Family Residential Medium). The subject property has an elevation of approximately 40-feet above mean sea level and lies within the Appealable Jurisdiction as depicted on the Appeal Jurisdiction Map of the Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction Maps.

Approximately 10-feet northwest of the site, Encinal Creek emerges from a culvert beneath Pacific Coast Highway and generally flows southwest approximately 15 to 20-feet from the northwest property boundary. This stream is mapped as an Environmentally Sensitive Habitat Area (ESHA) on the Malibu ESHA Overlay map of the Local Implementation Plan (LIP). Though the stream is located offsite and no functional riparian habitat extends onto the subject property, the entire site is located within the required 100-foot ESHA buffer. Therefore, the development area is limited to a footprint of 25 percent of the total lot size, or 889 square feet.

A grove of eucalyptus trees lining the adjacent drainage area to the west is known to serve as monarch butterfly wintering habitat. Branches from the eucalyptus trees do not overhang the site, though they are located near the property boundary.

The property is the most northerly of six contiguous vacant parcels along Sea Level Drive, all of which have applied for development approvals. This project is the first of the six to be reviewed by the Planning Commission (see Attachment 2, Site Map).

The subject parcel is situated approximately 650-feet north of the Pacific Ocean, immediately south of Pacific Coast Highway and immediately west of Broad Beach Road. Sea Level Drive is a gated road accessed off of Broad Beach Road. Properties in the area are generally developed with single-family residences. Additional residential development is located north of Pacific Coast Highway.

Project Description

The proposed project consists of the following:

- Construction of a new, 1,214 square foot, two-story, single-family residence. The first floor is 567 square feet with a 101 square foot breezeway and a 209 square foot, attached garage. The second floor is 546 square feet. The structure will not exceed 28-feet in height.
- An alternative onsite wastewater treatment system.
- A permeable driveway of approximately 400 square feet.
- Approximately 27 cubic yards of non-exempt remedial grading (all fill) to restore an eroded gully at the northern corner of the property.
- Understructure grading of approximately 36 cubic yards.
- Landscaping consisting of native, non-invasive species.

The project includes the following requests:

- Site plan review (SPR No. 04-044) to allow the construction of a single family residence with a maximum height of 28-feet
- Site plan review (SPR No. 06-011) for construction on slopes from 3:1 to 2½:1.
- A minor modification (MM No. 06-003) to allow a six-inch encroachment within the westerly side yard setback (required setback: nine-feet, four-inches; requested setback: eight-feet, 10-inches - a requested reduction of five percent).

Local Coastal Program

The Malibu LCP consists of a Land Use Plan (LUP) and a Local Implementation Plan (LIP). The LUP contains programs and policies to implement the California Coastal Act in Malibu. The LIP, which carries out the policies of the LUP, contains specific regulations to which projects requiring a CDP must adhere.

Staff reviewed the project for conformance with the following twelve sections of the LIP: (1) Zoning; (2) Grading; (3) Archaeological/Cultural Resources; (4) General Coastal Development Permit (CDP); (5) Environmentally Sensitive Habitat (ESHA); (6) Native Tree Protection; (7) Scenic, Visual and Hillside Protection; (8) Transfer of Development Credits; (9) Hazards; (10) Shoreline and Bluff Development; (11) Public Access; and (12) Land Division. Three sections, (i.e., Zoning, Grading, and Archaeological/Cultural Resources) are discussed under the "Conformance Analysis" section below, and require no Findings.

Conformance Analysis**Zoning**

Table 1 below provides a summary of the lot dimensions and lot area of the subject parcel.

Table 1 – Property Data	
Lot Depth	56'9"
Lot Width	62'5"
Gross Lot Area	3,556 sq. ft. (.08 acre)
*Net Lot Area	same

*Net Lot Area = Gross Lot Area minus the area of public or private easements and 1:1 slopes.

As shown in Table 2, with approval of the site plan review and minor modification requests, the proposed project complies with the LCP development standards. Story poles were placed on the subject property to demonstrate the height of the proposed residence and to analyze potential visual impacts. The maximum project height of 28-feet conforms to the allowed maximum under a site plan review. Staff visited the site on February 8, 2006 to ensure that the story poles were placed according to plan and to evaluate potential impacts. Existing off-site riparian vegetation and other off-site trees within the PCH right-of-way currently block any potential views towards the ocean. If this vegetation were removed, however, blue water views of the ocean above the existing neighborhood of homes may be revealed. (Removal of riparian vegetation is highly unlikely, however, given provisions for ESHA protection within the LCP.) Though the site slopes down from Pacific Coast Highway to the ocean, public views of blue water would still be substantially visible above the structure, as the project site is located approximately 15-feet below the grade of the highway. The project is consistent with all applicable LCP codes, standards, goals, and policies. (Please see Attachment 7, Department Review Sheets, for agency review/conditions.)

Table 2 provides a summary of development standards (pursuant to LIP Sections 3.5 and 3.6) and indicates the project's compliance with these standards. With the exception of the SPR and MM requests, the project complies with the applicable development standards.

Table 2 – LCP Zoning Conformance			
Development Requirement	Allowed	Proposed	Comments
SETBACKS			
Front Yard	20% depth=11'5"	16'9"	Complies
Rear Yard	15'	15'	Complies
Side Yard 10% (east)	6'3"	6'3"	Complies
Side Yard 15% (west)	9'4"	8'10"	Minor Modification
PARKING (18' by 10")	2 enclosed 2 unenclosed	2 encl., stacked 2 unenclosed	Complies
TOTAL DEVELOPMENT SQUARE-FOOTAGE	1,629.4 sq. ft.	1,425 sq. ft.	Complies
DEVELOPMENT AREA 25% of lot – ESH Buffer	889 sq. ft.	889 sq. ft.	Complies
2/3RDS RULE/2 nd floor sq. ft.	587 sq.ft.	544 square feet	Complies
HEIGHT	18'	28'	Site Plan Review
IMPERMEABLE COVERAGE	1600 sq.ft. (45%)	889 sq.ft.	Complies
NON-EXEMPT GRADING	1,000 c.y.	0	Complies
CONSTRUCTION SLOPES	ON 3:1	3:1 - 2 ½:1	Site Plan Review
Fence/Wall Height			
Front	42" impermeable 30" permeable	72" permeable	Complies
Side(s)	6 feet	72" wildlife - permeable	Complies
Rear	6 feet	72" wildlife - permeable	Complies

Grading

The proposed structure does not include any basement areas and is built upon friction piles, thereby minimizing the amount of grading and site disturbance required. Non-exempt grading is limited to the 27 cubic yards of remedial fill required to restore an eroded gully at the northern corner of the property. Therefore, the project conforms to the grading requirements as set forth under LIP Section 8.3, which ensures that new development minimizes the visual and resource impacts of grading and landform alteration.

	<i>Exempt</i>			<i>Non-Exempt</i>	<i>Remedial</i>	<i>Total</i>
	<i>R&R</i>	<i>Understructure</i>	<i>Safety</i>			
Cut		8				8
Fill		28			27	55
Total		36			27	63
Import		20			27	47
Export						

All quantities indicated shall be in Cubic Yards only.

R&R = Removal and Recompaction

Safety Grading is required grading for L.A. County Fire Depart. Access approval beyond the fifteen foot minimum access and may include turnouts, hammerheads, turnarounds, and access roadway widening.

Archaeological/Cultural Resources

A Phase 1 study was completed for this property in September 2004 by Compass Rose Archaeological, Inc. Small pieces of marine shell were found at the site. Therefore, on August 3 and 4, 2004, Compass Rose monitored the boring of two geologic test holes and concluded in the report of August 23, 2004, that "since no cultural resources were found in any of the intact soils from either hole, it is recommended that no further archaeological work is necessary at this time." Nonetheless, the project has been conditioned to ensure a qualified archaeologist and/or Native American monitor is onsite throughout all grading activities (see Condition No. 33 and Condition No. 10 of Attachment 1).

Findings

The proposed project has been reviewed for conformance with the LCP by the Planning Division staff, the City Biologist, City Environmental Health Specialist, City Geologist, City Public Works Department and the Los Angeles County Fire Department (LACFD). Staff has determined that, subject to the proposed conditions of approval, the project conforms to the LCP. Based upon the foregoing evidence contained within the record and pursuant to LIP Section 13.9, the six required findings are discussed and made below.

A. General Coastal Development Permit (LCP - Chapter 13)

Pursuant to LIP Section 13.9, the following four findings need to be made on all coastal development permits.

Finding A. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

With approval of the requested site plan review and minor modification, the project, as conditioned, conforms to the certified City of Malibu Local Coastal Program (LCP) and the required development standards (see Table 2).

Finding B. The project is located between the first public road and the sea. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. There is no potential to provide public access to the beach; however, as the site is approximately 650 feet from the shoreline. Nine parcels, oriented linearly north-south, separate the project site from the ocean. Construction and development of the site would not hinder public recreation or coastal access. Nearby public access is available approximately one-third mile to the west at Robert H. Meyers Memorial State Beach. The nearest existing public access way to the east is located at Trancas Beach. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Finding C. The project is the least environmentally damaging alternative.

Though immediately adjacent to a stream Environmentally Sensitive Habitat Area (ESHA) and completely within the associated 100-foot ESHA buffer, the subject parcel is entirely devoid of riparian vegetation and does not provide significant habitat for any known sensitive species (see Section D of this report, ESHA Overlay). The proposed new residence is located within a developed neighborhood (SF-M zone) of homes generally larger than what is proposed as part of this project. The proposed new residence is consistent with Sections 4.7 – 4.7.4 of the Malibu LIP, which allows for reasonable development on parcels completely within an ESHA buffer, provided the development area is limited to 25 percent of the parcel size.

According to the alternatives analysis submitted by the applicant, project size, placement and design were all dictated by the constraints of the site and the requirements of City agencies. The applicant has also indicated that placement of

the structure nearer the street (farther from the ESHA) is not possible due to parking regulations and OWTS requirements. Furthermore, according to the applicant, the local Homeowners' Association did not support any additional encroachments within front or side yard setbacks.

The project has been located as far from the creek as feasible, while providing the required parking spaces and maintaining appropriate setbacks from the leach field and the required 100 percent expansion area. As approved by the City Biologist, site landscaping has been designed to enhance the riparian habitat at the rear of the property through the incorporation of native riparian vegetation and monarch butterfly-friendly plantings. Therefore, the proposed project would not result in significant adverse effects on the environment, and there are no feasible alternatives that would further reduce any impacts on the environment.

As discussed later in this report, the project has been found to be exempt from the requirements of the California Environmental Quality Act (CEQA). Due to habitat and topographical constraints on the property, the proposed location of the home is the least environmentally damaging alternative.

Finding D. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

Pursuant to LIP Section 4.3(D), the City Biologist and the Environmental Review Board (ERB) reviewed the proposed project. At the meeting of June 22, 2005, the ERB made six specific recommendations for the project. Five of the six recommendations, relating to development/graded areas, potential impacts from the new alternative onsite wastewater treatment system, and construction timing to avoid the monarch butterfly season have been addressed and/or incorporated into the design of the project. The final recommendation requested the orientation of windows and reflective materials away from the ESHA in order to minimize light-related impacts. Given the highly constrained nature of the site and the size of the proposed residence, it is not possible to avoid the placement of windows at the northwest side of the structure. The building has been oriented in a north-south fashion and, while maintaining other required setbacks, placed as far from the creek as possible. By necessity, the wider principal facades of the building face the front and rear of the property. The proposed windows are needed to provide vital light and ventilation, and would not fit onto the narrower sides of the home. Therefore, it is not feasible to orient all glass windows away from the ESHA. However, given the established path of the sun across the southerly portion of the sky, little direct sunlight is expected to reflect off of this northwest elevation. In order to reduce potential spillover from interior lighting, the applicant has incorporated dual-glazed

windows and interior blinds. The design of the project has been reviewed and approved by the City Biologist. Accordingly, this project complies with the criteria established in the LCP.

B. Site Plan Review for a height greater than 18 feet and not exceeding 28 feet [LIP Section 13.27.5(A)]

The proposed height of the residence is a maximum of 28-feet. The LCP requires that the City make findings in the consideration and approval of a SPR for construction in excess of the City's base 18-feet in height up to 28-feet with a pitched roof. The City requires additional findings (M.M.C. Section 17.62.070). The findings for SPR No. 04-044 for height are enumerated below.

Finding A. That the project is consistent with policies and provisions of the Malibu LCP.

With approval of the requested site plan review and minor modification, the project, as conditioned, conforms to the certified City of Malibu Local Coastal Program (LCP) and the required development standards (see Table 2).

Finding B. That the project does not adversely affect neighborhood character.

The proposed new residence is located on a small, highly constrained property within a developed neighborhood of single-family homes. Story poles were placed on the site to demonstrate the project's potential for aesthetic changes to the site relative to nearby properties. The building's height and bulk will not adversely affect the character of the neighborhood, as the structure is consistent with the character of surrounding residences. Numerous two-story residences exist along this portion of West Sea Level Drive. Though the structure will be immediately visible to persons driving through the access gate onto Sea Level Drive, the structure has been set back 15-feet from the front property line in order to provide adequate room for required parking and onsite wastewater treatment system areas. According to the applicant, the local Homeowners' Association requested conformance to this front yard setback distance and approved the reduced side yard setback. The project complies with the size limitations and other setbacks of the SF-M zoning district and would not adversely impact neighborhood character.

Finding C. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

As discussed in Section G., Scenic Visual and Hillside Resource Protection Ordinance, of this report, staff visited the site after story poles were placed and evaluated the project as it relates to public views. Potential public ocean views may be revealed above the existing neighborhood of homes if existing off-site vegetation

were removed. (Removal of riparian vegetation is highly unlikely due to provisions for ESHA protection within the LCP.) Nonetheless, blue water ocean views would still be substantially visible above the proposed residence. The project provides maximum feasible protection to public views as required by the LCP.

Finding D. The proposed project complies with all applicable requirements of state and local law.

The project has received LCP conformance review from the City Biologist, City Geologist, City Public Works Department and City Environmental Health Specialist, as well as the Los Angeles County Fire Department. It must also be approved by the Los Angeles County Fire Department and the City of Malibu Environmental and Building Safety Division prior to issuance of building permits. The proposed project complies with all applicable requirements of state and local law.

Finding E. The project is consistent with the City's general plan and local coastal program.

The project is consistent with the General Plan designation for the site. As discussed herein, the project is consistent with the LCP.

Finding F. The portion of the project that is in excess of 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

As discussed in Section G. of this report, Scenic Visual and Hillside Resource Protection Ordinance, staff visited the site after story poles were placed and evaluated the project as it relates to private views. The design and location of the residence will not create encroachments into any known private views. The proposed height increase would not obstruct private views of the Pacific Ocean, Santa Monica Mountains, canyons, valleys or ravines from the main viewing area of any affected principal residence.

C. Site Plan Review for Construction on Slopes [LIP Section 13.27.5(A)]

The LCP requires that the City make findings in the consideration and approval of a SPR for construction on slopes between 3:1 and 2½:1. Slopes meeting these criteria are located on the property. The SPR findings can be made and are enumerated below.

Finding A. That the project is consistent with policies and provisions of the Malibu LCP.

With approval of the requested site plan review and minor modification, the project, as conditioned, conforms to the certified City of Malibu Local Coastal Program (LCP) and the required development standards (see Table 2).

Finding B. That the project does not adversely affect neighborhood character.

The proposed new residence is located on a small, highly constrained property within a developed neighborhood of single-family homes. Story poles were placed on the site to demonstrate the project's potential for aesthetic changes to the site relative to nearby properties. The building's height and bulk will not adversely affect the character of the neighborhood, as the structure is consistent with the character of surrounding residences. The parcel slopes away from Sea Level Drive. Construction on slopes of 2.5:1 permits the placement of the home 15-feet from the front property line. According to the applicant, the local Homeowners' Association requested conformance to this front yard setback distance. The project complies with the size limitations and other setbacks of the SF-M zoning district and would not adversely impact neighborhood character.

Finding C. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

As discussed in Section G., Scenic Visual and Hillside Resource Protection Ordinance, of this report, staff visited the site after story poles were placed and evaluated the project as it relates to public views. Potential public ocean views may be revealed above the existing neighborhood of homes if existing off-site vegetation were removed. (Removal of riparian vegetation is highly unlikely, however, given provisions for ESHA protection within the LCP.) Nonetheless, blue water ocean views would still be substantially visible above the proposed residence. The project provides maximum feasible protection to public views as required by the LCP.

Finding D. The proposed project complies with all applicable requirements of state and local law.

The project has received LCP conformance review from the City Biologist, City Geologist, City Public Works Department and City Environmental Health Specialist, as well as the Los Angeles County Fire Department. It must also be approved by the Los Angeles County Fire Department and the City of Malibu Environmental and Building Safety Division prior to issuance of building permits. The proposed project complies with all applicable requirements of state and local law.

D. Minor Modification Findings for Reduction in Side Yard Setback (LIP Section 13.27.5)

Pursuant to LIP Section 13.27.5, the Planning Commission may approve or condition a minor modification application only if the Planning Commission affirmatively finds that the proposed minor modification (MM No. 06-003) to the side setback by six-inches, or five percent, (from nine-feet, four-inches to eight feet, 10-inches in this application), meets all of the following findings of fact:

Finding A. That the project is consistent with policies of the Malibu LCP.

The project has been reviewed and analyzed for conformance with the LCP by Planning Division staff, the City Geologist, City Environmental Health Specialist, City Biologist, City of Malibu Public Works Department, City Coastal Engineer and the Los Angeles County Fire Department and has been determined to be consistent with the policies and provisions of the LCP (see Table 2 and accompanying discussion). The project proposal includes a five percent reduction in the side yard setback from nine-feet, four-inches to seven-feet, six-inches. Section 4.6.4.B states, "Modifications to required development standards that are not related to ESHA protection (street setbacks, height limits, etc.) shall be permitted where necessary to avoid or minimize impacts to ESHA." The proposed setback reduction enables the positioning of the structure as far from the creek and ESHA as possible.

Pursuant to Malibu LIP Section 13.27.1(B) a minor modification may be granted to reduce setback requirements by no more than 20 percent and front yard setbacks by no more than 50 percent. The proposed project meets these requirements.

Finding B. That the project does not adversely affect neighborhood character.

The proposed new residence is located on a small, highly constrained property within a developed neighborhood of single-family homes.

The building's height and bulk will not adversely affect the character of the neighborhood, as the structure is consistent with the character of surrounding residences. Though the structure will be immediately visible to persons driving through the access gate onto Sea Level Drive, the structure has been set back 15-feet from the front property line in order to provide adequate room for required parking and septic areas. According to the applicant, the local Homeowners' Association requested conformance to this front yard setback distance and approved the reduced sideyard setback. The project complies with the size limitations and other setbacks of the SF-M zoning district and would not adversely impact neighborhood character.

Finding C. The proposed project complies with all applicable requirements of state and local law.

The proposed project complies with all applicable requirements of state and local law. The project has been conditioned to secure all relevant approvals and permits from the City of Malibu Environmental and Building Safety Division and the Los Angeles County Fire Department.

E. Environmentally Sensitive Habitat Area (ESHA) Overlay (LIP - Chapter 4)

A Biological Assessment of the site was prepared by Rincon Consultants, Inc., dated October 21, 2004 (see Attachment 9). This survey identified no sensitive plant or animal species on the project site, though adjacent eucalyptus trees were designated as monarch butterfly wintering habitat. In addition, the survey recommended timing construction to avoid bird nesting and monarch butterfly wintering seasons. Additional recommendations, incorporated into the design of the project and required pursuant to Conditions 16-18 and 27-29, relate to site landscaping, non wood-burning fireplaces and lighting design.

Though immediately adjacent to a stream ESHA, and completely within the associated 100-foot ESHA buffer, the subject parcel is entirely devoid of riparian vegetation and does not provide significant habitat for any known sensitive species. Based on a review of aerial photographs from 1972, the site has been maintained free of significant vegetation. The proposed building pad is located entirely within existing disturbed areas, and proposed native plantings will enhance the quality of the existing riparian habitat (Biological Assessment Report, Rincon Consultants, October 21, 2004).

The intent of the ESHA buffer is to "serve as transitional habitat and provide distance and physical barriers to human intrusion," thereby ensuring the biological integrity and preservation of the nearby habitat by strictly limiting permitted development (LIP Section 4.6.1, Buffers). However, in order to ensure property owners' rights to reasonable, economically viable use of their land, Malibu LIP Section 4.7 permits limited development on lands entirely within ESHA or ESHA Buffer. The proposed new residence is consistent with Sections 4.7 – 4.7.4 of the LIP, which limits impermeable development to 25 percent of the parcel size. In addition, the project has been located as far from the creek as feasible, while providing the required parking spaces and maintaining appropriate setbacks from the leach field and the required 100 percent expansion area. As approved by the City Biologist, native landscaping has been incorporated to enhance the riparian habitat at the rear of the property.

The project site does not include any significant vegetation or ESHA. The proposal has been located as far from the creek as possible and will ultimately enhance the quality of

the existing riparian habitat. The amount of proposed development does not exceed the allowed maximum. Therefore, the proposed project would not result in significant adverse effects on the environment, within the meaning of CEQA, and there are no further feasible alternatives that would further reduce any impacts on the environment. As discussed later in this report, the project has been found to be exempt from the requirements of the California Environmental Quality Act (CEQA).

Given the highly hydrated condition of vegetation along the drainage area, required Zone A fuel clearance has been reduced by the Los Angeles County Fire Department and will not require removal of any trees or significant native vegetation. Pursuant to the approved fuel modification plan, Zone A will not extend beyond the boundaries of the property. Therefore, minimal native vegetation disturbance will be required, as the property includes no significant native vegetation. Zone B and C extend up to 200-feet from the property, though offsite fuel modification is limited to the trimming of existing trees (up to 10-feet above ground), the removal of saplings and dead or dying materials. Trimming of eucalyptus trees on the adjacent creek property, known to provide wintering habitat for monarch butterflies, has been conditioned to avoid wintering months (see condition 18). Therefore, given conformance to all required standards and conditions, the project would not adversely impact ESHA.

The project shall also comply with all requirements of LIP Section 3.10.1 (D), landscaping monitoring. Performance criteria shall be designed to measure the success of the plantings. Specifically, five years from the date of the Certificate of Occupancy, the applicant shall submit a landscape monitoring report which shall meet the satisfaction of the Planning Manager and City Biologist certifying that the on-site landscaping is in conformance with the approved landscape plan. All other standard conditions for landscaping and monitoring will ensure that impacts resulting from landscaping will be less than significant. Conformance with the requirements contained in the LCP will ensure that potential impacts to ESHA are less than significant. Therefore, because all development projects in the City must conform to the City's standard conditions of approval and the LCP provisions detailed herein, the proposed project will not adversely impact biological resources.

Pursuant to Section 4.7.6 of the LIP, structural residential development within an ESHA buffer may be approved or conditionally approved only if the Planning Commission makes the following supplemental findings:

Finding A. Application of the ESHA overlay ordinance would not allow construction of a residence on an undeveloped parcel.

The entirety of the subject parcel is located within the 100-foot ESHA buffer. Application of the standard development restrictions that apply to ESHA buffers would not permit the construction of a residence on this parcel.

Finding B. The use proposed by the applicant is consistent with the applicable zoning.

The proposed single-family residence is consistent with the property's SF-M zoning.

Finding C. The project is consistent with all provisions of the certified LCP with the exception of the ESHA overlay ordinance and it complies with the provisions of Section 4.7 of the Malibu LIP.

As stated in Section A. General Coastal Development Permit, Finding A of this report, the proposed project is consistent with all provision's of Malibu's certified LCP, with the exception of the ESHA overlay ordinance. Section 4.7 of the LIP provides for reasonable, economically viable, use of properties that could otherwise not be developed due to ESHA constraints. The proposed new residence is consistent with Sections 4.7.1 of the LIP, which limits development area to 25 percent of the parcel size.

F. Native Tree Protection Ordinance (LIP - Chapter 5)

There are no native trees located on the project site. No adjacent trees will be removed in order to accommodate development or fuel modification. Therefore, according to Section 5.7, the native tree findings are not applicable.

G. Scenic Visual and Hillside Resource Protection Ordinance (LIP - Chapter 6)

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area. The project site is located between Pacific Coast Highway and the ocean and the proposed structure would be slightly visible from Pacific Coast Highway. The maximum project height of 28-feet conforms to the maximum allowable height permitted as part of a site plan review permit. Story poles were erected February 1, 2006 to demonstrate the project's size, bulk, scale and potential for visual impacts.

The project complies with LIP height requirements and no impacts on scenic and/or visual resources are anticipated. The Scenic, Visual and Hillside Resource Protection Ordinance Findings, as set forth in LIP Section 6.4, support the proposed project, as follows:

Finding A. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

Existing vegetation within the PCH right-of-way currently blocks any potential views towards the ocean. However, if this vegetation were removed, blue water views of the ocean above the existing neighborhood of homes may be revealed. Though the site slopes down from Pacific Coast Highway to the ocean, public views of blue water would still be visible above the structure, as the project site is located approximately 15-feet below the grade of the highway. Visits to the site following construction of story poles have demonstrated that substantial blue water views would remain above the height of the proposed roof. There are no known private views that would potentially be impacted by the project. As of the writing of this report, no letters from the public have been received regarding visual concerns. Therefore, no potentially significant impacts on scenic or visual resources are anticipated.

LIP Section 6.5(E) requires a contiguous view corridor (20 percent of the lineal frontage of the lot) for new development located on the ocean side of public roads, where necessary to provide public ocean views across the site. Though the project site is immediately seaward of Pacific Coast Highway, the building pad is located approximately 15-feet below the grade of the highway. Furthermore, nine other properties, three of which are developed with single family residences, separate the property from the ocean. Any potential blue water ocean views over the existing neighborhood would still be substantially visible above the roof of the proposed structure. As there are no significant public ocean views that may be impacted by the proposal, the requirement for a contiguous view corridor does not apply.

Finding B. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

The project would be only slightly visible from Pacific Coast Highway. The requested reduction in the side yard setback will not result in any adverse visual impacts. The proposal includes extensive native landscaping intended to enhance the appearance of the site and improve the quality of the adjacent degraded riparian corridor. The proposed project is designed utilizing colors and materials that will be compatible with the surrounding environment and will be compatible with the architectural character of the surrounding neighborhood. No tennis courts, riding arenas or other uses which might include bright prominent light sources, which could be disruptive to wildlife are proposed. The project has been conditioned to limit exterior lighting and any interior lighting that may impact the adjacent ESHA (see Condition Nos. 28 and 29). Required fuel modification areas have been minimized and no tree removal will be required on or off site. Therefore, the project will not have any significant adverse

scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding C. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A. General Coastal Development Permit, Finding C of this report, the proposed project, as conditioned, is the least environmentally damaging alternative.

Finding D. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As discussed in Section E. Scenic Visual and Hillside Protection, Findings 1 and 2, above, the proposed project will not result in any significant adverse impacts to scenic and visual resources.

Finding E. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As discussed in Section C. Environmentally Sensitive Habitat Area, above, the project has been designed to conform to all applicable resource protection policies of Malibu's LCP. As discussed in Section E. Scenic Visual and Hillside Protection, Findings 1 and 2, above, the proposed project will not result in any significant adverse impacts to scenic and visual resources.

H. Transfer of Development Credits (LIP - Chapter 7)

Pursuant to Malibu LIP Section 7.2, transfers of development credits only apply to land division and/or new multi-family development in specified zoning districts. The proposed CDP does not involve land division or multi-family development. Therefore, LIP Chapter 7 does not apply.

I. Hazards (LIP - Chapter 9)

The project was analyzed by staff for the hazards listed in the LIP Section 9.2.A.1-7. The project consists of a new, single-family residence. The project has been deemed consistent with all relevant policies and regulations by the City Geologist, the City Public Works Department and the Los Angeles County Fire Department. According to geotechnical reports and addenda dated September 3, 2004, November 29, 2004, December 29, 2004, April 26, 2005, and September 16, 2005, (available on file at City

Hall), the project will not result in potentially significant adverse impacts to on-site stability or structural integrity. Remedial grading is proposed to restore an eroded gully at the northern portion of the site, thereby improving site stability. Therefore, according to LIP Section 9.3, LCP hazard findings need not be made.

J. Shoreline and Bluff Development (LIP – Chapter 10)

The project does not include development of a parcel located on or along the shoreline as defined by the Malibu Local Coastal Program. Therefore, in accordance with Section 10.2 of the Local Implementation Plan, the requirements of Chapter 10 of the LIP are not applicable.

K. Public Access (LIP - Chapter 12)

The project is located between the first public road and the sea. There is no potential to provide public access across the site to the beach, as the property is approximately 650 feet north of the shoreline. Nine parcels, oriented linearly north-south, separate the project site from the ocean. Construction and development of the site would not hinder public recreation or coastal access. Nearby public access is available approximately one-third mile to the west at Robert H. Meyers Memorial State Beach. The nearest existing public access way to the east is located at Trancas Beach. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Vertical Access. The project is not adjacent to the Pacific Ocean and access to the Pacific Ocean from the project site is not possible. Therefore, no conditions or findings for vertical access are required.

Lateral Access. The project is not located on a beach; therefore, no conditions or findings for lateral access are required.

Bluff Top Access. The project is not located on a bluff top per the applicability standards of LIP Chapter 10; therefore, no conditions or findings for bluff top access are required.

Trail Access. The Trails Master Plan of the Malibu LCP does not identify any existing or proposed trails across the project site.

Recreational Access. The project site does not include or has any access ways to existing or planned public recreational areas. Therefore, no conditions or findings for recreational access are required.

L. Land Division (LIP - Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; therefore, Chapter 15 of the LCP does not apply.

M. Onsite Wastewater Treatment System (LIP Chapter 18)

LIP Chapter 18 addresses Alternative Onsite Wastewater Treatment Systems (AOWTS). LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes approval of an AOWTS, which was previously reviewed by the City Environmental Health Specialist and found to meet the minimum requirements of the Malibu Plumbing Code, the City of Malibu Municipal Code and the LCP. The system meets all applicable requirements and operating permits will be required. An operation and maintenance contract and recorded covenant will be required pursuant to conditions 35 and 36. Also, the lot will receive municipal water from Los Angeles County Water District 29.

Environmental Review Board

The Environmental Review Board evaluated this project because the site is immediately adjacent to an Environmentally Sensitive Habitat Area (ESHA), as mapped on the LCP ESHA Overlay Map, and is located entirely within the standard 100-foot ESHA buffer. The biological assessment prepared by Rincon Consultants, August 23, 2004, describes the degraded nature of the adjacent riparian corridor and the lack of significant native vegetation or habitat on the subject parcel. For more information regarding the ERB's review of this project, see Section A. Coastal Development Permit, Finding D, of this report. The ERB recommendations have also been included as Attachment 5 of this report (see conditions 16-18 and 27-19).

CORRESPONDENCE:

At the ERB's hearing of June 22, 2005, a packet of information was submitted by a member of the public. The packet, which was unsigned, requests that the planning division 1) assign one planner to all six West Sea Level properties; 2) survey the creek "to ensure the mandated buffer zone is utilized;" 3) provide no variances for the projects; and 4) "require that each of the six building sites comply with the building standards set forth for development in an ESHA as well as all other applicable codes, regulations and restrictions." To date, no additional correspondence has been received from the public regarding this project.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Division has analyzed the proposed project. The Planning Division has found that the project is among the classes of projects listed that have been determined to have less than significant adverse effects

on the environment and therefore, is exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued pursuant to CEQA Guidelines Section 15303 (a) – New Construction.

PUBLIC NOTICE: Pursuant to Malibu Local Coastal Program LIP Section 13.12.1, staff published the required 10-day public hearing notice in the Malibu Surfside News on March 9, 2006. In addition, a Notice of Public Hearing was mailed to property owners and occupants within a 500-foot radius of the subject property on March 8, 2006 (see Attachment 10, Public Hearing Notice).

SUMMARY: The required findings can be made that the project complies with the LCP. Further, the Planning Division's findings of fact are supported by substantial evidence in the record. Based upon the analysis contained within this report, staff is recommending approval of this project subject to the conditions of approval contained in Section 4 (Conditions of Approval) of Planning Commission Resolution No. 06-20. Planning staff, other City Departments (Public Works, Environmental Health Services, Geology, Biology), and the Los Angeles County Fire Department recommend conditional approval of the proposed project.

ATTACHMENTS:

1. Planning Commission Resolution No. 06-20
2. Area Site Map depicting adjacent properties
3. Aerial Photograph
4. Site Photographs
5. ERB Recommendation Letter
6. Project Plans
7. Department Review Sheets
8. LCP Public Access Map
9. Biological Assessment
10. Public Hearing / Mailing Notice

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 06-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 05-043 AND SITE PLAN REVIEW PERMIT NO. 04-044 - AN APPLICATION TO CONSTRUCT A NEW, 1,214 SQUARE FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A 209 SQUARE FOOT ATTACHED GARAGE AND A NEW, ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM. THE APPLICATION INCLUDES A SITE PLAN REVIEW FOR CONSTRUCTION IN EXCESS OF 18-FEET, NOT TO EXCEED 28-FEET, AND CONSTRUCTION ON SLOPES UP TO 2½:1. A MINOR MODIFICATION IS ALSO REQUESTED TO ALLOW A SIX-INCH ENCROACHMENT WITHIN THE WESTERLY SIDE YARD SETBACK. THE DEVELOPMENT IS PROPOSED IN A SINGLE-FAMILY - MEDIUM (SF-M) ZONING DISTRICT LOCATED AT 31894 WEST SEA LEVEL DRIVE. (DAVIDA ROCHLIN)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On January 23, 2004, a Pre-Application (PA 04-006) was filed with the Planning Division for review and comment. Subsequently, an application for an Administrative Plan Review (APR No. 04-036) and a Site Plan Review (SPR No. 04-044) was submitted on June 30, 2004 for the construction of a new single family residence. Staff provided general development standard information to the applicant in response to the Pre-Application. Following adoption of the City's Local Coastal Plan, the APR was no longer applicable, and this application for a Coastal Development Permit (CDP No. 05-043) was filed on March 15, 2005. The application was referred to and reviewed by the City Biologist, City Environmental Health Specialist, City Geologist, City Public Works Department and the Los Angeles County Fire Department (LACFD).
- B. The application was reviewed by the Environmental Review Board on June 22, 2005. The ERB expressed concerns and made recommendations regarding grading, hydrology and habitat conservation. All feasible recommendations have been addressed and have been incorporated into the proposed project.
- C. Story poles were erected on February 1, 2006. On February 12, 2006, a Notice of Application was posted on the property. The pending application was deemed complete for processing on February 15, 2006.
- D. On March 9, 2006, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on March 8, 2006, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.
- E. On March 20, 2006, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony and other information in the record.

Section 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Division has analyzed the proposed project. The Planning Division has found that the project is among the classes of projects listed that have been determined to have less than significant adverse effects on the environment and therefore, is exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued pursuant to CEQA Guidelines Section 15303 (a) – New Construction.

Section 3. Coastal Development Permit Approval and Findings.

Based on substantial evidence contained within the record and pursuant to Sections 13.7.B and 13.9 of the City Malibu LCP Local Implementation Plan (LIP), the Planning Commission adopts the findings in the staff report, the findings of fact below, and approves CDP No. 05-043 for the construction of a new, 1,214 square foot, two-story, single-family residence with a 209 square foot, attached garage and a new, alternative onsite wastewater treatment system (AOWTS). The proposal includes a site plan review for construction in excess of 18-feet, not to exceed 28-feet and construction on slopes up to 2½:1. A minor modification is also requested to allow a six-inch encroachment within the westerly side yard setback.

The proposed project has been reviewed by the City Geologist, City Environmental Health Specialist, City Biologist, and City Public Works Department, as well as the Los Angeles County Fire Department.

A Phase 1 study was completed for this property in September 2004 by Compass Rose Archaeological, Inc. Small pieces of marine shell were found at the site. Therefore, on August 3 and 4, 2004, Compass Rose monitored the boring of two geologic test holes and concluded in the report of August 23, 2004, that "since no cultural resources were found in any of the intact soils from either hole, it is recommended that no further archaeological work is necessary at this time." Nonetheless, the project has been conditioned to ensure a qualified archaeologist is onsite throughout all grading activities (see Condition No. 33 and Condition No. 10).

The project is consistent with the LCP's zoning, grading, water quality, and onsite wastewater treatment system (OWTS) requirements. The project is consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made below.

A. General Coastal Development Permit (LCP - Chapter 13)

Pursuant to LIP Section 13.9, the following four findings need to be made on all CDPs.

Finding A. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The project has been reviewed for conformance with the LCP (see Table 2 in the accompanying staff report). As discussed throughout this report, with approval of the requested site plan review and minor modification, the project, as conditioned, conforms to the certified City of Malibu LCP.

Finding B. If the project is located between the first public road and the sea, that the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road and the sea. There is no potential to provide public access to the beach; however, as the site is approximately 650-feet from the shoreline. Nine parcels, oriented linearly north-south, separate the project site from the ocean. Construction and development of the site would not hinder public recreation or coastal access. Nearby public access is available approximately one-third mile to the west at Robert H. Meyers Memorial State Beach. The nearest existing public access way to the east is located at Trancas Beach. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Finding C. The project is the least environmentally damaging alternative.

Though immediately adjacent to a creek Environmentally Sensitive Habitat Area (ESHA) and completely within the associated 100-foot ESHA buffer, the subject parcel is entirely devoid of riparian vegetation and does not provide significant habitat for any known sensitive species (see Section E of this Resolution, ESHA Overlay). The proposed new residence is located within a developed neighborhood (SF-M zone) of homes generally larger than what is proposed as part of this project. The proposed new residence is consistent with Sections 4.7 – 4.7.4 of the Malibu LIP, which allows for reasonable development on parcels completely within an ESHA buffer, provided impermeable development is limited to 25 percent of the parcel size.

According to the alternatives analysis submitted by the applicant, project size, placement and design were all dictated by the constraints of the site and the requirements of City agencies. The applicant has also indicated that placement of the structure nearer the street (farther from the ESHA) is not possible due to parking regulations and OWTS requirements. Furthermore, according to the applicant, the local Homeowners' Association did not support any additional encroachments within front or side yard setbacks.

The project has been located as far from the creek as feasible, while providing the required parking spaces and maintaining appropriate setbacks from the leach field and the required 100 percent expansion area. As approved by Dave Crawford, City Biologist, site landscaping has been designed to enhance the riparian habitat at the rear of the property through the incorporation of native riparian vegetation and monarch butterfly-friendly plantings. Therefore, the proposed project would not result in significant adverse effects on the environment, and there are no further feasible alternatives that would further reduce any impacts on the environment. Due to habitat and topographical constraints on the property, the proposed location of the home is the least environmentally damaging alternative.

Finding D. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

Pursuant to LIP Section 4.3(D), the City Biologist and the Environmental Review Board (ERB) reviewed the proposed project. At the hearing of June 22, 2005, the ERB made six specific recommendations for the project. Five of the six recommendations, relating to development/graded areas, potential impacts from the new alternative onsite wastewater treatment system, and construction timing to avoid the monarch butterfly season have been addressed and/or incorporated into the design of the project. The final recommendation requested the orientation of windows and reflective materials away from the ESHA in order to minimize light-related impacts. Given the highly constrained nature of the site and the size of the proposed residence, it is not possible to avoid the placement of windows at the northwest side of the structure. The building has been oriented in a north-south fashion and, while maintaining other required setbacks, placed as far from the creek as possible. By necessity, the wider principal facades of the building face the front and rear of the property. The proposed windows are needed to provide vital light and ventilation, and would not fit onto the narrower sides of the home. Therefore, it is not feasible to orient all glass windows away from the ESHA. Given the established path of the sun across the southerly portion of the sky, however, little direct sunlight is expected to reflect off of this northwest elevation. In order to reduce potential spillover from interior lighting, the applicant has incorporated dual-glazed windows and interior blinds. The design of the project has been reviewed and approved by Dave Crawford, staff biologist. Accordingly, this project complies with the criteria established in the LCP.

B. Site Plan Review for a height greater than 18 feet and not exceeding 28 feet [LIP Section 13.27.5(A)]

The proposed height of the residence is a maximum of 28-feet. The LCP requires that the City make findings in the consideration and approval of a SPR for construction in excess of the City's base 18-foot in height up to 28-feet with a pitched roof. The City requires additional findings (MMC Section 17.62.070). The findings for SPR No. 04-044 for height are enumerated below.

Finding A. That the project is consistent with policies and provisions of the Malibu LCP.

With approval of the requested site plan review and minor modification, the project, as conditioned, conforms to the certified City of Malibu Local Coastal Program (LCP) and the required development standards (see Table 2).

Finding B. That the project does not adversely affect neighborhood character.

The proposed new residence is located on a small, highly constrained property within a developed neighborhood of single-family homes. Story poles were placed on the site to demonstrate the project's potential for aesthetic changes to the site relative to nearby properties. The building's height and bulk will not adversely affect the character of the neighborhood, as the structure is consistent with the character of surrounding residences. Numerous two-story residences exist along this portion of West Sea Level Drive. Though the structure will be immediately visible to persons driving through the access gate onto West Sea Level Drive, the structure has been set back 15-feet from the front property line in order to provide adequate room for required parking and septic areas. According to the applicant, the local Homeowners' Association requested conformance to this front yard setback distance and approved the reduced side yard setback. The project complies with the size limitations and other setbacks of the SF-M zoning district and would not adversely impact neighborhood character.

Finding C. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

As discussed in Section G., Scenic Visual and Hillside Resource Protection Ordinance, of this report, staff visited the site after story poles were placed and evaluated the project as it relates to public views. Potential public ocean views may be revealed above the existing neighborhood of homes if existing off-site vegetation were removed. (Removal of riparian vegetation is highly unlikely due to provisions for ESHA protection within the LCP.) Nonetheless, blue water ocean views would still be substantially visible above the proposed residence. The project provides maximum feasible protection to public views as required by the LCP.

Finding D. The proposed project complies with all applicable requirements of state and local law.

The project has received LCP conformance review from the City Biologist, City Geologist, City Public Works Department and City Environmental Health Specialist, as well as the Los Angeles County Fire Department. It must also be approved by the Los Angeles County Fire Department and the City of Malibu Environmental and Building Safety Division prior to issuance of building permits. The proposed project complies with all applicable requirements of state and local law.

Finding E. The project is consistent with the City's general plan and local coastal program.

The project is consistent with the General Plan designation for the site. As discussed herein, the project is consistent with the LCP.

Finding F. The portion of the project that is in excess of 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

As discussed in Section G. of this report, Scenic Visual and Hillside Resource Protection Ordinance, staff visited the site after story poles were placed and evaluated the project as it relates to private views. The design and location of the residence will not create encroachments into any known private views. The proposed height increase would not obstruct private views of the Pacific Ocean, Santa Monica Mountains, canyons, valleys or ravines from the main viewing area of any affected principal residence.

C. Site Plan Review for Construction on Slopes [LIP Section 13.27.5(A)]

The LCP requires that the City make findings in the consideration and approval of a SPR for construction on slopes between 3:1 and 2½:1. Artificial slopes meeting these criteria are located on the property; therefore, SPR No. 04-044 for construction on slopes is hereby processed. The SPR findings are enumerated below.

Finding A. That the project is consistent with policies and provisions of the Malibu LCP.

With approval of the requested site plan review and minor modification, the project, as conditioned,

conforms to the certified City of Malibu Local Coastal Program (LCP) and the required development standards.

Finding B. That the project does not adversely affect neighborhood character.

The proposed new residence is located on a small, highly constrained property within a developed neighborhood of single-family homes. Story poles were placed on the site to demonstrate the project's potential for aesthetic changes to the site relative to nearby properties. The building's height and bulk will not adversely affect the character of the neighborhood, as the structure is consistent with the character of surrounding residences. Numerous two-story residences exist along this portion of Sea Level Drive. Though the structure will be immediately visible to persons driving through the access gate onto Sea Level Drive, the structure has been set back 15-feet from the front property line in order to provide adequate room for required parking and septic areas. According to the applicant, the local Homeowners' Association requested conformance to this front yard setback distance and approved the reduced side yard setback. The project complies with the size limitations and other setbacks of the SF-M zoning district and would not adversely impact neighborhood character.

Finding C. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

As discussed in Section G., Scenic Visual and Hillside Resource Protection Ordinance, of this report, staff visited the site after story poles were placed and evaluated the project as it relates to public views. Potential public ocean views may be revealed above the existing neighborhood of homes if existing off-site vegetation were removed. (Removal of riparian vegetation is highly unlikely due to provisions for ESHA protection within the LCP.) Nonetheless, blue water ocean views would still be substantially visible above the proposed residence. The project provides maximum feasible protection to public views as required by the LCP.

Finding D. The proposed project complies with all applicable requirements of state and local law.

The project has received LCP conformance review from the City's Biologist, Geologist, Public Works Department and Environmental Health Specialist, as well as the Los Angeles County Fire Department. It must also be approved by the Los Angeles County Fire Department and the City of Malibu Environmental and Building Safety Division prior to issuance of building permits. The proposed project complies with all applicable requirements of state and local law.

D. Minor Modification Findings for Reduction in Side Yard Setback (LIP Section 13.27.5)

Pursuant to LIP Section 13.27.5, the Planning Commission may approve or condition a minor modification application only if the Planning Commission affirmatively finds that the proposed reduction in the side setback by six inches, or five percent, (from nine-feet, four-inches to eight-feet, 10-inches in this application), meets all of the following findings of fact:

Finding A. That the project is consistent with policies of the Malibu LCP.

The project has been reviewed and analyzed for conformance with the LCP by Planning Division staff, the City Geologist, City Environmental Health Specialist, City Biologist, City of Malibu Public Works

Department, City Coastal Engineer and the Los Angeles County Fire Department and has been determined to be consistent with the policies and provisions of the LCP (see Table 2 and accompanying discussion from the staff report). The project proposal includes a five percent reduction in the side yard setback from nine-feet, four-inches to seven-feet, six-inches. Section 4.6.4.B states, "Modifications to required development standards that are not related to ESHA protection (street setbacks, height limits, etc.) shall be permitted where necessary to avoid or minimize impacts to ESHA." The proposed setback reduction enables the positioning of the structure as far from the creek and ESHA as possible.

Pursuant to Malibu LIP Section 13.27.1(B) a Minor Modification may be granted to reduce setback requirements by no more than 20 percent and front yard setbacks by no more than 50 percent. The proposed project meets these requirements.

Finding B. That the project does not adversely affect neighborhood character.

The proposed new residence is located on a small, highly constrained property within a developed neighborhood of single-family homes.

The building's height and bulk will not adversely affect the character of the neighborhood, as the structure is consistent with the character of surrounding residences. Though the structure will be immediately visible to persons driving through the access gate onto West Sea Level Drive, the structure has been set back 15-feet from the front property line in order to provide adequate room for required parking and septic areas. According to the applicant, the local Homeowners' Association requested conformance to this front yard setback distance and approved the reduced sideyard setback. The project complies with the size limitations and other setbacks of the SF-M zoning district and would not adversely impact neighborhood character.

Finding C. The proposed project complies with all applicable requirements of state and local law.

The proposed project complies with all applicable requirements of state and local law. The project has been conditioned to secure all relevant approvals and permits from the City of Malibu Environmental and Building Safety Division and the Los Angeles County Fire Department.

E. Environmentally Sensitive Habitat Area (ESHA) Overlay (LIP - Chapter 4)

A Biological Assessment of the site was prepared by Rincon Consultants, Inc., dated October 21, 2004. This survey identified no sensitive plant or animal species on the project site, though adjacent eucalyptus trees were designated as monarch wintering habitat. In addition, the survey recommended timing construction to avoid bird nesting and monarch wintering seasons. Additional recommendations, incorporated into the design of the project and required pursuant to Conditions 16-18 and 27-29, relate to site landscaping, non wood-burning fireplaces and lighting design.

Though immediately adjacent to a stream ESHA, and completely within the associated 100-foot ESHA buffer, the subject parcel is entirely devoid of riparian vegetation and does not provide significant habitat for any known sensitive species. Based on a review of aerial photographs from 1972, the site has been maintained free of significant vegetation. The proposed building pad is located entirely within existing disturbed areas, and proposed native plantings will enhance the quality of the existing riparian habitat

(Biological Assessment Report, Rincon Consultants, October 21, 2004).

The intent of the ESHA buffer is to "serve as transitional habitat and provide distance and physical barriers to human intrusion," thereby ensuring the biological integrity and preservation of the nearby habitat by strictly limiting permitted development (LIP Section 4.6.1, Buffers). However, in order to ensure property owners' rights to reasonable, economically viable use of their land, Malibu LIP Section 4.7 permits limited development on lands entirely within ESHA or ESHA Buffer. The proposed new residence is consistent with Sections 4.7 – 4.7.4 of the LIP, which limits impermeable development to 25 percent of the parcel size. In addition, the project has been located as far from the creek as feasible, while providing the required parking spaces and maintaining appropriate setbacks from the leach field and the required 100 percent expansion area. As approved by Dave Crawford, City Biologist, native landscaping has been incorporated to enhance the riparian habitat at the rear of the property.

The project site does not include any significant vegetation or ESHA. The proposal has been located as far from the creek as possible and will ultimately enhance the quality of the existing riparian habitat. The amount of proposed development does not exceed the allowed maximum. Therefore, the proposed project would not result in significant adverse effects on the environment, within the meaning of CEQA, and there are no further feasible alternatives that would further reduce any impacts on the environment. As discussed later in this report, the project has been found to be exempt from the requirements of the California Environmental Quality Act (CEQA).

Given the highly hydrated condition of vegetation along the drainage area, required Zone A fuel clearance has been reduced by the Los Angeles County Fire Department and will not require removal of any trees or significant native vegetation. Pursuant to the approved fuel modification plan, Zone A will not extend beyond the boundaries of the property. Therefore, minimal native vegetation disturbance will be required, as the property includes no significant native vegetation. Zone B and C extend up to 200 feet from the property, though offsite fuel modification is limited to the trimming of existing trees (up to ten feet above ground), the removal of saplings and dead or dying materials. Trimming of eucalyptus trees on the adjacent creek property, known to provide wintering habitat for monarch butterflies, has been conditioned to avoid wintering months (see Condition No. 18). Therefore, given conformance to all required standards and conditions, the project would not adversely impact ESHA.

The project shall also comply with all requirements of LIP Section 3.10.1 (D), landscaping monitoring. Performance criteria shall be designed to measure the success of the plantings. Specifically, five years from the date of the Certificate of Occupancy, the applicant shall submit a landscape monitoring report which shall meet the satisfaction of the Planning Manager and City Biologist certifying that the on-site landscaping is in conformance with the approved landscape plan. All other standard conditions for landscaping and monitoring will ensure that impacts resulting from landscaping will be less than significant. Conformance with the requirements contained in the LCP will reduce impacts to ESHA to a less than significant level. Therefore, because all development projects in the City must conform to the City's standard conditions of approval and the LCP provisions detailed herein, the proposed project will not adversely impact biological resources.

Pursuant to Section 4.7.6 of the LIP, structural residential development within an ESHA buffer may be approved or conditionally approved only if the Planning Commission makes the following supplemental findings:

Finding A. Application of the ESHA overlay ordinance would not allow construction of a residence on an undeveloped parcel.

The entirety of the subject parcel is located within the 100-foot ESHA buffer. Application of the standard development restrictions that apply to ESHA buffers would not permit the construction of a residence on this parcel.

Finding B. The use proposed by the applicant is consistent with the applicable zoning.

The proposed single-family residence is consistent with the property's SF-M zoning.

Finding C. The project is consistent with all provisions of the certified LCP with the exception of the ESHA overlay ordinance and it complies with the provisions of Section 4.7 of the Malibu LIP.

As stated in Section A. General Coastal Development Permit, Finding A of this resolution, the proposed project is consistent with all provision's of Malibu's certified LCP, with the exception of the ESHA overlay ordinance. Section 4.7 of the LIP provides for reasonable, economically viable, use of properties that could otherwise not be developed due to ESHA constraints. The proposed new residence is consistent with Sections 4.7.1 of the LIP, which limits impermeable development to 25 percent of the parcel size.

F. Native Tree Protection Ordinance (LIP - Chapter 5)

There are no native trees located on the project site. No adjacent trees will be removed in order to accommodate development or fuel modification. Therefore, according to Section 5.7, the native tree findings are not applicable.

G. Scenic Visual and Hillside Resource Protection Ordinance (LIP - Chapter 6)

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area. The project site is located between Pacific Coast Highway and the ocean and the proposed structure would be slightly visible from Pacific Coast Highway. The maximum project height of 28-feet conforms to the maximum allowable height permitted as part of a site plan review permit. Story poles were erected February 1, 2006 to demonstrate the project's size, bulk, scale and potential for visual impacts.

The project complies with LIP height requirements and no impacts on scenic and/or visual resources are anticipated. The Scenic, Visual and Hillside Resource Protection Ordinance Findings, as set forth in LIP Section 6.4, support the proposed project, as follows:

Finding A. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

Existing vegetation within the PCH right-of-way currently blocks any potential views towards the ocean. However, if this vegetation were removed, blue water views of the ocean above the existing

neighborhood of homes may be revealed. Though the site slopes down from Pacific Coast Highway to the ocean, public views of blue water would still be visible above the structure, as the project site is located approximately 15-feet below the grade of the highway. Visits to the site following construction of story poles have demonstrated that substantial blue water views would remain above the height of the proposed roof. There are no known private views that would potentially be impacted by the project. As of the writing of this report, no letters from the public have been received regarding visual concerns. Therefore, no potentially significant impacts on scenic or visual resources are anticipated.

LIP Section 6.5(E) requires a contiguous view corridor (20 percent of the lineal frontage of the lot) for new development located on the ocean side of public roads, where necessary to provide public ocean views across the site. Though the project site is immediately seaward of Pacific Coast Highway, the building pad is located approximately 15-feet below the grade of the highway. Furthermore, nine other properties, three of which are developed with single family residences, separate the property from the ocean. Any potential blue water ocean views over the existing neighborhood would still be substantially visible above the roof of the proposed structure. As there are no significant public ocean views that may be impacted by the proposal, the requirement for a contiguous view corridor does not apply.

Finding B. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

The project would be only slightly visible from Pacific Coast Highway. The requested reduction in the side yard setback will not result in any adverse visual impacts. The proposal includes extensive native landscaping intended to enhance the appearance of the site and improve the quality of the adjacent degraded riparian corridor. The proposed project is designed utilizing colors and materials that will be compatible with the surrounding environment and will be compatible with the architectural character of the surrounding neighborhood. No tennis courts, riding arenas or other uses which might include bright prominent light sources, which could be disruptive to wildlife are proposed. The project has been conditioned to limit exterior lighting and any interior lighting that may impact the adjacent ESHA (see Conditions 28 and 29). Required fuel modification areas have been minimized and no tree removal will be required on or off site. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding C. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As discussed in Section A. General Coastal Development Permit, Finding C of this report, the proposed project, as conditioned, is the least environmentally damaging alternative.

Finding D. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As discussed in Section E. Scenic Visual and Hillside Protection, Findings 1 and 2, above, the proposed project will not result in any significant adverse impacts to scenic and visual resources. .

Finding E. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As discussed in Section C. Environmentally Sensitive Habitat Area, above, the project has been designed to conform to all applicable resource protection policies of Malibu's LCP. As discussed in Section E. Scenic Visual and Hillside Protection, Findings 1 and 2, above, the proposed project will not result in any significant adverse impacts to scenic and visual resources.

H. Transfer Development Credits (LIP - Chapter 7)

Pursuant to LIP Section 7.2, the regulations requiring a transfer development credit apply to any action to authorize a CDP for a land division. This CDP does not involve a land division. Therefore, LIP Chapter 7 does not apply to this application.

I. Hazards (LIP - Chapter 9)

The project was analyzed by staff for the hazards listed in the LIP Section 9.2.A.1-7. The project consists of a new single family residence. The project has been deemed consistent with all relevant policies and regulations by the City Geologist and the City Public Works Department. According to geotechnical reports and addenda dated September 3, 2004, November 29, 2004, December 29, 2004, April 26, 2005, and September 16, 2005, (available on file at City Hall), the project will not result in potentially significant adverse impacts to onsite stability or structural integrity. Remedial grading is proposed to restore an eroded gully at the northern portion of the site, thereby improving site stability. Therefore, according to LIP Section 9.3, LCP hazard findings need not be made.

J. Shoreline and Bluff Development (LIP - Chapter 10)

The project does not include development of a parcel located on or along the shoreline as defined by the Malibu Local Coastal Program. Therefore, in accordance with Section 10.2 of the Local Implementation Plan, the requirements of Chapter 10 of the LIP are not applicable.

K. Public Access (LIP - Chapter 12)

The project is located between the first public road and the sea. There is no potential to provide public access across the site to the beach, as the property is approximately 650 feet north of the shoreline. Nine parcels, oriented linearly north-south, separate the project site from the ocean. Construction and development of the site would not hinder public recreation or coastal access. Nearby public access is available approximately one-third mile to the west at Robert H. Meyers Memorial State Beach. The nearest existing public access way to the east is located at Trancas Beach. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Vertical Access. The project is not adjacent to the Pacific Ocean and access to the Pacific Ocean from the project site is not possible. Therefore, no conditions or findings for vertical access are required.

Lateral Access. The project is not located on a beach; therefore, no conditions or findings for lateral access are required.

Bluff Top Access. The project is not located on a bluff top per the applicability standards of LIP Chapter 10; therefore, no conditions or findings for bluff top access are required.

Trail Access. The Trails Master Plan of the Malibu LCP does not identify any existing or proposed trails across the project site.

L. Land Division (LIP - Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; therefore, Chapter 15 of the LCP does not apply and no findings are required.

M. Onsite Wastewater Treatment System (LIP Chapter 18)

LIP Chapter 18 addresses Alternative Onsite Wastewater Treatment Systems (AOWTS). LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes approval of an AOWTS, which was previously reviewed by the City Environmental Health Specialist and found to meet the minimum requirements of the Malibu Plumbing Code, the City of Malibu Municipal Code and the LCP. The system meets all applicable requirements and operating permits will be required. An operation and maintenance contract and recorded covenant will be required pursuant to Conditions 35 and 36. Also, the lot will receive municipal water from the Los Angeles County Water District.

N. Environmental Review Board

The Environmental Review Board evaluated this project because the site is immediately adjacent to an Environmentally Sensitive Habitat Area (ESHA), as mapped on the LCP ESHA Overlay Map, and is located entirely within the standard 100-foot ESHA buffer. The biological assessment prepared by Rincon Consultants, August 23, 2004, describes the degraded nature of the adjacent riparian corridor and the lack of significant native vegetation or habitat on the subject parcel. For more information regarding the ERB's review of this project, see Section A. Coastal Development Permit, Finding D, of this report. The ERB recommendations have also been included as Attachment 5 of this report.

Section 4. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 05-043, SPR No. 04-044 and MM No. 06-003 subject to the conditions listed below:

Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of

the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for construction the following:
 - Construction of a new, 1,214 square foot, two-story, single-family residence. The first floor is 567 square feet with a 101 square foot breezeway and a 209 square foot attached garage. The second floor is 546 square feet. The structure will not exceed 28-feet in height.
 - An alternative onsite wastewater treatment system.
 - A permeable driveway of approximately 400 square feet.
 - Approximately 27 cubic yards of non-exempt remedial grading (all fill) to restore an eroded gully at the northern corner of the property.
 - Understructure grading of approximately 36 cubic yards.
 - Landscaping consisting of native non-invasive species.

The project includes the following:

- Site plan review (SPR No. 04-044) to allow the construction of a single family residence with a maximum height of 28-feet and the construction of this home on slopes of up to 2½:1.
- A minor modification (MM No. 06-003) to allow a six-inch encroachment within the westerly side yard setback (required setback: nine-feet, four-inches; requested setback: eight-feet, 10-inches - a requested reduction of 5 percent).

Subsequent submittals for this project shall be in substantial compliance with the plans date-stamped received by the Planning Division on March 20, 2005. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

3. Pursuant to LIP Section 13.18.2 (page 237), this permit and rights conferred in this approval shall not be effective until the permittee or authorized agent(s) signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 10 working days of this decision.
4. This resolution and the department review sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental and Building Safety Division for plan check and the City of Malibu Public Works/Engineering Services Department for an encroachment permit (as applicable).
5. The CDP shall be null and void if the project has not commenced within two (2) years after issuance of the permit. Extension to the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent at least two weeks prior to expiration of the two-year period and shall set forth the reasons for the request.

6. Questions of intent or interpretation of any condition of approval will be resolved by the Planning Division Manager upon written request of such interpretation.
7. All structures shall conform to the requirements of the City of Malibu Environmental and Building Safety Division, and to all City Geologist, City Coastal Engineer, City Environmental Health Specialist, City Biologist, Los Angeles County Water District No. 29, and Los Angeles County Fire Department requirements, as applicable. Notwithstanding this review, all required permits shall be secured.
8. The applicant shall submit three (3) complete sets of plans to the Planning Division for consistency review and approval prior to the issuance of any building or development permit.
9. The applicant shall request a final planning inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Division has determined that the project complies with this CDP. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Division Manager, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.
10. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Division Manager can review this information. Thereafter, the procedures contained in LCP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.
11. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.
12. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Division Manager, provided such changes achieve substantially the same results and the project is still in compliance with the MMC and the LCP. An application with all required materials and fees shall be required.
13. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights thereunder.
14. This CDP runs with the land and binds all future owners of the property.
15. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The coastal development permit is not effective until all appeals, including those to the California Coastal Commission, have been exhausted. In the event that the

California Coastal Commission denies the permit or issues the permit on appeal, the CDP approved by the City is void.

Special Conditions

Construction Timing

16. Grading shall be scheduled only during the dry season from April 1 – October 31. If it becomes necessary to conduct grading activities from November 1 – March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.
17. Prior to commencement of construction between the months of February 1 to July 31, a nesting bird survey shall be conducted by a qualified wildlife biologist. If active bird nests are found during preconstruction surveys, a no-disturbance buffer zone shall be created around the nesting birds; the size of the buffer zones and types of prohibited construction activities shall be determined in coordination with the City of Malibu staff biologist.
18. Work involving direct impacts to eucalyptus trees, such as trimming of branches, if necessary, shall be conducted outside of the monarch butterfly wintering season (from November 1 through March 1). Location, amount and timing of tree trimming shall be reviewed and approved by the City of Malibu staff biologist.

Site Conditions

19. Total impermeable development onsite shall not exceed a maximum footprint of 889 square feet, as required by LIP Section 4.7.1.
20. When the framing is completed, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. The Planning Division shall sign off stating that said document has been received and verified.
21. No structure may exceed 28-feet in height, as measured from finished or existing grade, whichever results in a lower building height.
22. The height of fences and walls shall comply with LIP Section 3.5.3(A). All side and rear fencing shall be wildlife-permeable. No retaining wall shall exceed six feet in height.
23. New structures shall incorporate colors and exterior materials that are compatible with the surrounding landscape. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. The use of highly reflective materials shall be prohibited except for solar energy panels or cells which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible. All windows, skylights, and other glass areas shall be comprised of non-glare glass. All windows at the northwest elevation of the structure shall shield interior light from adjacent riparian areas through the use of interior blinds.

24. All driveways shall be permeable and shall be a neutral color that blends with the surrounding landforms and vegetation. The color shall be reviewed and approved by the Planning Manager and clearly indicated on all grading, improvement and/or building plans.
25. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color and material of all retaining walls shall be reviewed and approved by the Planning Manager and clearly indicated on all grading, improvement and/or building plans.
26. Native/drought tolerant landscaping shall be planted and maintained at the front of the structure to screen it from adjacent properties.

Biology/Landscaping

27. The project shall comply with all conditions of approval as stipulated in the biology referral sheet, dated June 2, 2005, attached to the agenda report for this project.

Lighting

28. Exterior and interior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas. Permitted lighting shall conform to the following standards:
 - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height that are directed downward, and use bulbs that do not exceed 60 watts or the equivalent.
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 60 watts or the equivalent.
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 60 watts or the equivalent.
 - d. Lights at entrances in accordance with Building Codes shall be permitted provided that such lighting does not exceed 60 watts or the equivalent
 - e. Site perimeter lighting and lighting that may spill into adjacent ESHA shall be prohibited.
 - f. Outdoor decorative lighting for aesthetic purposes is prohibited.
 - g. Night lighting for sports courts or other private recreational facilities shall be prohibited.
 - h. Prior to issuance of the CDP, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions.

-
29. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject properties shall not produce an illumination level greater than one footcandle.

Geology

30. The project shall comply with all conditions of approval required by the City Geologist, as shown on the referral sheet, dated November 17, 2005, attached to the agenda report for this project
31. All recommendations of the consulting certified engineering geologist (CEG) or geotechnical engineer (GE) and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
32. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require an amendment of the CDP or a new CDP.

Archaeology

33. Throughout grading activities, a qualified archaeologist and/or Native American monitor shall be onsite to monitor potential disturbance of cultural resources.

Public Works

34. The project shall comply with all conditions of approval required by the City Public Works Department, including waste management conditions, as shown on the referral sheet, dated April 5, 2004, attached to the agenda report for this project.

Onsite Wastewater Treatment System

35. Prior issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu's Onsite Wastewater Treatment regulations including provisions of LIP Chapter 18.9 related to continued operation, maintenance, and monitoring onsite facilities.
36. The project shall comply with all conditions of approval required by the City Environmental Health Department, as shown on the referral sheet, dated November 22, 2005, attached to the agenda report for this project.

Potable Water

37. Prior to issuance of building permits, the applicant shall obtain approvals from Los Angeles County, and other agencies as necessary, for domestic water usage.

38. Prior to Certificate of Occupancy, the applicant shall install a mechanical car lift system in substantial conformance with the approved plans. The minimum required floor to ceiling clearance shall be nine-feet, eight-inches.
39. Barbeques and fireplaces shall be non-wood-burning. Gas-burning appliances shall be permitted. No wood-burning facilities shall be permitted on-site.
40. Prior to issuance of the Coastal Development Permit, the applicant shall provide evidence or guarantee that compensatory mitigation, in the form of an in-lieu fee, has been paid to the Santa Monica Mountains Conservancy to mitigate habitat impacts resulting from fuel clearance requirements.

Section 5. Certification.

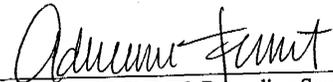
The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 20th day of March 2006.



LESLIE MOSS, Planning Commission Chair

ATTEST:



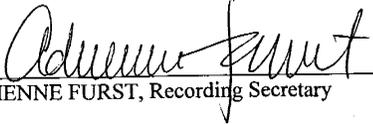
ADRIENNE FURST, Recording Secretary

Local Appeal - Pursuant to LIP Section 13.20.1 (Local Appeals), a decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee of \$623.00, as specified by the City Council. Appeal forms may be found online at www.ci.malibu.ca.us or in person at City Hall, or by calling (310) 456-2489 ext. 245.

California Coastal Commission Appeal - An aggrieved person may appeal the Planning Commission's decision to the California Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coastal District office located at 89 South California Street in Ventura, or by calling 805-585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 06-20 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 20th day of March 2006, by the following vote:

AYES: 4 Commissioners: Anthony, Schaar, Randall and Moss
NOES: 0
ABSTAIN: 0
ABSENT: 1 Commissioner: Sibert


ADRIENNE FURST, Recording Secretary

biological review, 06/02/05

City of Malibu

23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 Fax (310) 456-7650

BIOLOGICAL REVIEW

Planning Department
RECEIVED
APR 18 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Site Address: 31894 Sea Level Drive
Applicant/Phone: Davida Rochlin/ 310.476.1987
Project Type: NSFR
Project Number: CDP 05-043
Project Planner: Susan

RESOURCES: Stream ESHA; Jurisdictional Drainage

RECOMMENDATIONS:

1. The project is **APPROVED** with the following conditions and pursuant to recommendations from the ERB:
 - A. Invasive pant species, as determined by the City of Malibu, are prohibited.
 - B. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
 - C. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as copper arsenate.
 - D. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone required for fuel modification nearest approved residential structures. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
 - E. Grading shall be scheduled only during the dry season from April 1-October 31st. If it becomes necessary to conduct grading activities from November 1 -March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.
 - F. Construction fencing shall be placed no greater than 5 feet from the northern edge of the development envelope and indicated on the site plan. Construction fencing shall be installed prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site's sensitive habitat areas.



City of Malibu **RECEIVED**
ERB RECOMMENDATION

APR 18 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

To: CJ Amstrup, AICP, Planning Manager
Environmental Review Board

Prepared by: Paul Huckabee, Senior Planning Consultant *[Signature]*

Reviewed by: Dave Crawford, City Biologist *[Signature]*
Stacey Rice, AICP, Senior Planner *[Signature]*

Subject: Coastal Development Permit No. 05-043 – For a new two-story single-family dwelling and onsite wastewater treatment system (31894 Sea Level Drive)

Meeting Date: June 22, 2005 **Date Prepared:** July 12, 2005

Comments: At its June 22, 2005 meeting the above referenced project was considered by the Environmental Review Board (ERB). Their comments are enumerated below. The recommendations for the comments/concerns raised are also enumerated:

1. The site sensitivity is a function of the nearby Monarch Butterfly habitat.
2. Some remedial grading recommended by the geotechnical reports is not reflected on the project grading plans. It was also noted at the meeting that piles are an alternative that may eliminate the need for some grading.
3. The 2005 winter storms may have resulted in significant erosion on the site. Resurvey of the site and an updated geotechnical study may be warranted.
4. The geotechnical report does not address the wastewater treatment system's impact on the stability of the site. Wastewater effluent is not permitted to be deposited into fill.

Recommendations:

1. Architect should provide a clear exhibit showing which areas are part of the proposed development area.
2. The size of the piles should be increased so that the amount of cut can be reduced. The area not required to be cut as a result of the larger piles

should be returned to a natural state. The change should be evaluated for potential impacts.

3. The geotechnical reports should address the impacts of the wastewater treatment system.
4. Revised grading plans should be submitted accurately reflecting the applicant's civil engineer's recommendations.
5. Construction activity should be curtailed during the Monarch Butterfly season.
6. Any reflective materials and glass should be oriented away from the Environmentally Sensitive Habitat Area.



City of Malibu

Lawrence Young, Environmental Health Specialist
23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 ext. 348 fax (310) 456-7650

RECEIVED
APR 18 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

April 21, 2005

Davida Rochlin
11973 San Vicente Blvd.
Los Angeles, CA 90049

RE: 31894 SEA LEVEL DR., MALIBU, CA 90265 (CDP 05-043)

Dear Ms. Rochlin:

On April 21, 2005, **Conformance Review** was completed for the alternative onsite wastewater treatment system (AOWTS) proposed to serve the onsite wastewater treatment needs of subject property. The proposed AOWTS meets the minimum requirements of the City of Malibu Plumbing Code, i.e. Title 28 of the Los Angeles County Code, incorporating the California Plumbing Code, 2001 Edition, and the City of Malibu Ordinance No. 242 Amendments (MPC), and the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP). The following items shall be submitted prior to final approval:

- 1) **Plot Plan:** A final plot plan shall be submitted showing an alternative onsite wastewater disposal system design meeting the minimum requirements of the MPC, and the LCP/LIP, including necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. If inclusion of the above items renders the plot plan difficult to read, then the above items shall be submitted on two or more plot plans. All plot plans shall use the same scale so as to facilitate plot plan comparison.
- 2) **System Specifications:** Complete specifications shall be submitted as to all components (i.e. alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed alternative onsite wastewater disposal system.
- 3) **Operations & Maintenance Manual:** An operations and maintenance manual shall be submitted. This shall be the same operations and maintenance manual proposed for later submission to the owner and/or operator of the proposed alternative onsite wastewater disposal system.

- 4) **Proof Of Ownership:** Proof of ownership of subject property shall be submitted.
- 5) **Maintenance Contract:** A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed alternative onsite wastewater disposal system after construction shall be submitted. Please note only original "wet signature" documents are acceptable.
- 6) **Covenant:** A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an alternative method of onsite wastewater disposal pursuant to the City of Malibu Uniform Plumbing Code, Appendix K, Section 1(i). Said covenant shall be provided by the City of Malibu Environmental Health Specialist. Please note only original "wet signature" documents are acceptable.
- 7) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu Geologist and Geotechnical Engineer final approval shall be submitted.
- 8) **City of Malibu Biologist Approval:** City of Malibu Biologist final approval shall be submitted. The City of Malibu Biologist shall review the AOWTS design to determine any impact on any Environmentally Sensitive Habitat Area.
- 9) **Fee:** An additional fee of \$625.00 shall be required for final approval.

If you have any questions regarding the above requirements, please contact me at your earliest convenience.

Sincerely,

L Young

Lawrence Young

cc:file

DR



City of Malibu

Lawrence Young, Environmental Health Specialist
23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 ext. 348 fax (310) 456-7650

RECEIVED
APR 18 2006

November 22, 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Davida Rochlin
11973 San Vicente Blvd.
Los Angeles, CA 90049

RE: 31894 BROAD BEACH RD., MALIBU, CA 90265 (CDP 05-043)

Dear Ms. Rochlin:

On November 22, 2005, a **Revised Conformance Review** was completed for the alternative onsite wastewater treatment system (AOWTS) proposed to serve the onsite wastewater treatment needs of subject property. The proposed AOWTS meets the minimum requirements of the City of Malibu Plumbing Code, i.e. Title 28 of the Los Angeles County Code, incorporating the California Plumbing Code, 2001 Edition, and the City of Malibu Ordinance No. 242 Amendments (MPC), and the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP). The following items shall be submitted prior to final approval:

- 1) **Coastal Development Permit:** Contact the City of Malibu Department of Environmental and Community Development, Planning Division, and obtain a Coastal Development for subject project.
- 2) **Plot Plan:** A final plot plan shall be submitted showing an alternative onsite wastewater disposal system design meeting the minimum requirements of the MPC, and the LCP/LIP, including necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. If inclusion of the above items renders the plot plan difficult to read, then the above items shall be submitted on two or more plot plans. All plot plans shall use the same scale so as to facilitate plot plan comparison. The final design shall show tertiary treatment as defined by the City of Malibu Plumbing Code.
- 3) **System Specifications:** Complete specifications shall be submitted as to all components (i.e. alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed alternative onsite wastewater disposal system.

- 4) **Operations & Maintenance Manual:** An operations and maintenance manual shall be submitted. This shall be the same operations and maintenance manual proposed for later submission to the owner and/or operator of the proposed alternative onsite wastewater disposal system.
- 5) **Proof Of Ownership:** Proof of ownership of subject property shall be submitted.
- 6) **Maintenance Contract:** A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed alternative onsite wastewater disposal system after construction shall be submitted. Please note only original "wet signature" documents are acceptable.
- 7) **Covenant:** A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an alternative method of onsite wastewater disposal pursuant to the City of Malibu Uniform Plumbing Code, Appendix K, Section 1(i). Said covenant shall be provided by the City of Malibu Environmental Health Specialist. Please note only original "wet signature" documents are acceptable.
- 8) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu Geologist and Geotechnical Engineer final approval shall be submitted.
- 9) **City of Malibu Biologist Approval:** City of Malibu Biologist final approval shall be submitted. The City of Malibu Biologist shall review the AOWTS design to determine any impact on any Environmentally Sensitive Habitat Area.
- 10) **Fee:** An additional fee of \$625.00 shall be required for final approval.

If you have any questions regarding the above requirements, please contact me at your earliest convenience.

Sincerely,



Lawrence Young, REHS

cc:file



City of Malibu

MEMORANDUM

RECEIVED
APR 18 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

To: Planning Department
 From: Public Works Department
 Date: April 5, 2005
 Re: Proposed Conditions of Approval for CDP 05-043, 31894 Sea Level Drive

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan and the City's Municipal Code can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

- The project proposes grading. Sections 8.3 of the LIP allows up to 1,000 cubic yards of combined cut and fill on a residential lot or 1,000 cubic yards of combined cut and fill per acre on a commercial Development.
- Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with section 8.3.
- A Grading and Drainage plan shall be approved containing the following information prior to the Issuance of grading permits for the project.
 - Public Works Department General Notes
 - Slopes created for development shall not exceed 3 (hor) to 1 (vert).
 - The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
 - The limits of land to be disturbed during project development shall be delineated on the Grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated.
 - Private storm drain systems shall be shown on the Grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
- A Wet Weather Erosion and Sediment control plan is required for this project (grading or construction activity is anticipated to occur during the rainy season). The following elements shall be included:
 - Locations where concentrated runoff will occur.

April 5, 2005

- Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for the installation of protective measures.
 - Location and sizing criteria for silt basins, sandbag barriers, and silt fencing.
 - Stabilized construction entrance and a monitoring program for the sweeping of material tracked off site.
- A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading permits for the project. This plan shall include:
 - Dust Control Plan for the management of fugitive dust during extended periods without rain.
 - Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff.
 - Designated area for the construction portable toilets that separates them from storm water runoff and limits the potential for upset.
 - Designated areas for disposal and recycling facilities for solid waste separated from the site drainage system to prevent the discharge of runoff through the waste.
 - A Storm Water Management Plan (SWMP) is required for this project. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design (page 283-4 LCP) and Source control (PAGE 284 LCP) Best Management Practices (BMP's) that have been implemented in the design of the project.
 - Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within section 17.4.2.B.2.
 - Geology and Geotechnical reports shall be submitted with all applications for plan review to the Public Works Department. Approval by Geology and Geotechnical Engineering shall be provided prior to the issuance of any permit for the project. The Developers Consulting Engineer shall sign the final plans prior to the issuance of permits.

The Planning Department is notified that the project could:

- 1. result in increased impervious surfaces and associated increased runoff.**





City of Malibu

23815 Stuart Ranch Rd., Malibu, California CA 90263-4804
(310) 456-2489 FAX (310) 456-7650

2430^{SV}

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APR 18 2006

GEOLOGY REVIEW REFERRAL SHEET

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

TO: City of Malibu City Geologist
FROM: City of Malibu Planning Department

DATE: 3/15/2005

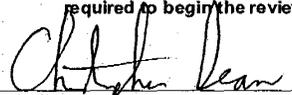
PROJECT NUMBER: CDP 05-043
JOB ADDRESS: 31894 SEA LEVEL DR
APPLICANT / CONTACT: Davida Rochlin
APPLICANT ADDRESS: 11973 San Vicente Blv
Los Angeles, CA 90049
APPLICANT PHONE #: (310)476-1987
APPLICANT FAX #: (310) 472-1287
PROJECT DESCRIPTION: N.S.F.R. Susan Villain

TO: Malibu Planning Department and/or Applicant

FROM: Mr. Chris Dean, City Geologist

- The project is geologically feasible and CAN proceed through the planning process.
- The project CANNOT proceed through the planning process until geological feasibility is determined. Depending upon the nature of the project, this may require geology and/or geo-technical engineering (soils) reports which evaluate the site conditions, factor of safety, and potential geologic hazards. The following items are required to begin the review process (see attached.)

* BPC
Comments
in letter
dated
1-7-05
must
be
addressed


SIGNATURE

4/5/05
DATE

Determination of geologic feasibility for planning should not be construed as approval of building and/or grading plans which need to be submitted for Building Department approval. At that time, those plans may require approval of both the City Geologist and Geo-technical Engineer. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review, including requiring geology and geo-technical reports.

Mr. Chris Dean, City Geologist, may be contacted at the Building & Safety Counter Mondays and Thursdays between 8:00 AM and 12:30 PM or by calling (310) 456-2489, extension 306.

Originated: 11/29/04 (gs)



City of Malibu

23815 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-7650

PUBLIC WORKS REVIEW REFERRAL SHEET

TO: Public Works Department *Revised Plans.*
DATE: 3/15/2005

FROM: Planning Division

PROJECT NUMBER: CDP 05-043

JOB ADDRESS: 31894 SEA LEVEL DR

APPLICANT / CONTACT: Davida Rochlin

APPLICANT ADDRESS: 11973 San Vicente Blv
Los Angeles, CA 90049

APPLICANT PHONE #: (310)476-1987

APPLICANT FAX #: (310) 472-1287

PROJECT DESCRIPTION: N.S.F.R.

To: Malibu Planning Division

From: Public Works Department

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APR 18 2006
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

The following items described on the attached memorandum shall be addressed and resubmitted. *Subject to the previous Conditions Dated April 15, 2005*

The project was reviewed and found to be in conformance with the City's Public Works and LCP policies and CAN proceed through the Planning process.

[Signature]
SIGNATURE

6/7/05
DATE

RECEIVED
CITY OF MALIBU
JUN 1 - 2005
Public Works
Department

SENT BY: HP LASERJET 3150;

8188804150;

JUN-6-05 10:01AM;

PAGE 1/1



City of Malibu

23815 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

FIRE DEPARTMENT REVIEW REFERRAL SHEET

RECEIVED
JUN 08 2005
PLANNING DEPT

TO: Los Angeles County Fire Department DATE: 3/15/2005
 FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 05-043
 JOB ADDRESS: 31894 SEA LEVEL DR
 APPLICANT / CONTACT: Davida Rochlin
 APPLICANT ADDRESS: 11973 San Vicente Blv
 Los Angeles, CA 90049
 APPLICANT PHONE #: (310)476-1987
 APPLICANT FAX #: (310) 472-1287
 PROJECT DESCRIPTION: N.S.F.R.

TO: Malibu Planning Department and/or Applicant
 FROM: Mr. Pat Askren, Fire Prevention Engineering Assistant

- The project DOES require Fire Department Plan Check and Developer Fee.
- The project DOES NOT require Fire Department Plan Check.
- The project shall provide a 20 foot wide Access Driveway and Safety Vehicle Turn-around.
- The project requires Interior Fire Sprinklers.
- The project requires 1,250 gallons per minute Fire Flow at 20 pounds per square inch for a 2 hour duration.
- Fire Department approval of a Final Fuel Modification Plan is required prior to City building permit issuance.

SIGN

DATE

6/6/05

Additional requirements/conditions may be imposed upon review of plan revisions.
 The Fire Prevention Engineering Assistant may be contacted by phone at 818-880-0343 or at the Fire Department Counter, Monday - Thursday between 8:00 AM and 5:00 PM
 26600 Acoura Road, Suite 110, Calabasas, CA 91302

SV



City of Malibu

23815 Stuart Ranch Rd., Malibu, California CA 90263-4403
(310) 456-2489 FAX (310) 456-7650

RECEIVED
APR 18 2006

GEOLOGY REVIEW REFERRAL SHEET

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

TO: City of Malibu City Geologist
FROM: City of Malibu Planning Department

DATE: 3/15/2005

PROJECT NUMBER: CDP 05-043
JOB ADDRESS: 31894 SEA LEVEL DR
APPLICANT / CONTACT: Davida Rochlin
APPLICANT ADDRESS: 11973 San Vicente Blv
Los Angeles, CA 90049
APPLICANT PHONE #: (310)476-1987
APPLICANT FAX #: (310) 472-1287
PROJECT DESCRIPTION: N.S.F.R. *reduced square footage from*

TO: Malibu Planning Department and/or Applicant *1515 to 1451 s.f.*
FROM: Mr. Chris Dean, City Geologist *(house in same location)*

The project is geologically feasible and CAN proceed through the planning process.

The project CANNOT proceed through the planning process until geologica feasibility is determined. Depending upon the nature of the project, this may require geology and/or geo-technical engineering (soils) reports which evaluate the site conditions, factor of safety, and potential geologic hazards. The following items are required to begin the review process (see attached.)

Chris Dean
SIGNATURE

6-2-05
DATE

Determination of geologic feasibility for planning should not be construed as approval of building and/or grading plans which need to be submitted for Building Department approval. At that time, those plans may require approval of both the City Geologist and Geo-technical Engineer. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review, including requiring geology and geo-technical reports.

Mr. Chris Dean, City Geologist, may be contacted at the Building & Safety Counter Mondays and Thursdays between 8:00 AM and 12:30 PM or by calling (310) 456-2489, extension 306.
Originated: 11/29/04 (gs)

*BPC letter 1-7-05
Still in effect.*



City of Malibu

23815 Stuart Ranch Road • Malibu, California 90265-4861
(310) 456-2489 • Fax (310) 456-7650 • www.ci.malibu.ca.us

BUILDING REVIEW

GEOTECHNICAL REVIEW SHEET

<u>Project Information</u>	
Date: June 7, 2005	Review Log #: 2430
Site Address: 31894 Sea Level Drive	Planning #: CDP 05-043
Lot/Tract/PM #: n/a	BPC/GPC #:
Applicant/Contact: Davida Rochlin	Planner: Susan Villain
Contact Phone #: 310-476-1987	Fax #: 310-472-1287
Project Type: New single-family residential development	

<u>Submittal Information</u>	
Consultant(s) / Report Date(s): Ralph Stone and Company, Inc. (Glenn, CEG 1238; Rowlands, RGE (Current submittal(s) in Bold.) 740): 4-26-05, 11-29-04, 9-3-04	
Previous Reviews: 1-7-05, 9-27-04	

<u>Review Findings</u>	
Building Plan-Check Stage	
<input checked="" type="checkbox"/>	Awaiting Building plan check submittal. Please respond to the listed 'Building Plan-Check Stage Review Comments' AND review and incorporate the attached 'Geotechnical Notes for Building Plan Check' into the plans.
<input checked="" type="checkbox"/>	APPROVED from a geotechnical perspective. Please review the attached 'Geotechnical Notes for Building Plan Check' and incorporate into Building Plan-Check submittals.
<input type="checkbox"/>	NOT APPROVED from a geotechnical perspective. The listed 'Building Plan-Check Stage Review Comments' shall be addressed prior to Building Plan-Check Stage approval.

Remarks

The referenced reports were reviewed by the City from a geotechnical perspective. Based upon the submitted information, the project comprises a new 1,566 square foot two-story single-family residence with a 209 square foot 2-car tandem garage and an onsite wastewater treatment system.

Please pay the outstanding geology review fee of \$1,002.50. No further deposit for geotechnical review is required, and geotechnical plan review may be accomplished over the counter on Mondays or Thursdays.

Building Stage Review Comments:

- "If, after City geotechnical staff approves the proposed development project in the planning stage, the applicant re-locates structures on the property to accommodate geotechnical setbacks recommended by the applicant's geotechnical consultants, the applicant shall provide updated plans depicting these revisions to the Planning Department for review and approval prior to submitting to building plan check. Changes in structure locations on a property could alter building heights and view corridors, and may be inconsistent with planning approvals."
- Two sets of final grading and foundation plans for the proposed guest house and residence (**APPROVED BY BUILDING AND SAFETY**) incorporating the Project Geotechnical Consultant's recommendations

Guidelines for geotechnical reports (dated February 2002) are available on the City of Malibu web site:
<http://www.ci.malibu.ca.us/index.cfm?fuseaction=nav&navid=30>

Fugro Project #: 3399.001

82



City of Malibu

23555 Civic Center Way, Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-3356

ENVIRONMENTAL HEALTH REVIEW REFERRAL SHEET

TO: City of Malibu Environmental Health Specialist
FROM: City of Malibu Planning Department

DATE: 3/15/2005
RECEIVED
APR 18 2006

PROJECT NUMBER: CDP 05-043
JOB ADDRESS: 31894 SEA LEVEL DR
APPLICANT / CONTACT: Davida Rochlin
APPLICANT ADDRESS: 11973 San Vicente Blv
Los Angeles, CA 90049
APPLICANT PHONE #: (310)476-1987
APPLICANT FAX #: (310) 472-1287
PROJECT DESCRIPTION: N.S.F.R.

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

New Construction Remodel Fire Damage

TO: Malibu Planning Department and/or Applicant
FROM: Mr. Larry Young, City Environmental Health Specialist

- An Onsite Wastewater Treatment System (OWTS) Plot Plan approval **IS NOT REQUIRED** for the project.
- An OWTS Plot Plan approval **IS REQUIRED** for the project. **DO NOT** grant your approval until an approved Plot Plan is received.

SIGNATURE LYoung

DATE 5/31/05

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not a Private Sewage Disposal System Plot Plan approval is required.

Mr. Larry Young, Environmental Health Specialist, may be contacted at the Building and Safety Counter on Thursdays from 8:00 AM - 12:30 PM, or by calling (310) 392-2011 or (818) 883-8585